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**Appraisal Subcommittee**  
*Federal Financial Institutions Examination Council*

March 2, 2007

Mr. Francois K. Gregoire, Chairman  
Florida Real Estate Appraisal Board  
Division of Real Estate  
Department of Business and  
Professional Regulation  
400 W. Robinson Street, Suite N801  
Orlando, FL 32801

Dear Mr. Gregoire:

Thank you for the Florida Real Estate Appraisal Board's ("Board") and the Department of Business and Professional Regulation's ("Department") cooperation and assistance in the November 30 through December 5, 2006 Appraisal Subcommittee ("ASC") review of Florida's real estate appraiser regulatory program ("Program"). Based on our field review, Florida needs to address four 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"). Because of the nature of these weaknesses, the ASC is keeping Florida on a one-year field review cycle.

- **Florida allowed tax assessors to be granted appraiser credentials without documented conformance to AQB experience criteria.**

As discussed in our June 7, 2004 field review letter, the Department, in August 2001, began allowing all appraiser applicants to provide affidavits attesting to the required hours of education and experience without requiring documentation to substantiate applicants' claims. Following our 2004 field review, Florida audited all appraisers who were issued certified credentials on or after August 1, 2001. The State also restructured its application practices to bring them into compliance with Title XI and ASC Policy Statement 10.

During the current field review, we found that the Department failed to change those application practices for tax assessors. Applicants claiming tax assessor experience continued to claim their experience by affidavit. We further found that appraisers who claimed tax assessor experience and were selected for audit were allowed to validate their experience by providing affidavits from their supervisors attesting to their experience claims. On those affidavits, the supervisors attested: (1) to the time period applicants worked for the county office; (2) that the appraiser used techniques to value properties similar to those methods employed by other "regular" appraisers; (3) that the appraiser effectively used the appraisal process; (4) that the components of the mass appraisal process were highest and best use analysis, model specification and model calibration; and (5) that the mass appraisals were performed in accordance with Standard 6 of USP AP. The Department did not request or require further supporting documentation.

Board regulation § 6111-6.001 provides that each applicant for certification must present evidence satisfactory to the Board that the applicant has the required experience to qualify for the applicable appraiser credential. Paragraph (5)(b)5 of that section, however, states that experience claims for *ad valorem* tax appraisal work will be verified by affidavit from the county property appraiser for whom the applicant works. In addition, paragraph (7) of that section states that, "An applicant for certification who is employed by state or local government in Florida or by the federal government may have the experience requirement verified by an official statement when the applicant, due to statutory restrictions on the release of appraisal related work product, is unable to verify experience in such a manner as provided by the Department."

For the following reasons, Board regulation § 61J1-6.001(5)(b)5 and (7) and the Department's practices discussed above violate Title XI because they fail to comply with the AQB's experience criteria for certification and ASC Policy Statement 10 F.

USP AP Standards Rule 6 is directed toward the substantive aspects of developing and communicating credible analyses, opinions, and conclusions in the mass appraisal of properties. The 1991 AQB criteria required that mass appraisal experience had to conform to USPAP Standards Rule 6. Because the AQB did not establish a time period regarding when this provision became effective, mass appraisal experience, regardless of when earned, had to comply with USP AP Standards Rule 6. In other words, beginning on March 27, 1991, certified appraiser credentials issued by a State had to be supported by experience that met AQB criteria.

In June 1997, the AQB changed the Interpretation regarding mass appraisal. The new Interpretation stated that mass appraisal experience earned after January 1, 1991, had to conform to USPAP Standards Rule 6. This Interpretation became effective in June 1997. Therefore, it applied to certified credentials issued in June 1997, or later.

In November 2006, ASC Executive Director Ben Henson met with the AQB during its public meeting and work sessions in La Jolla, California. Mr. Henson presented the mass appraisal experience issue to the AQB and discussed the ASC's reading and understanding of the AQB criteria. The AQB concurred with the ASC's understanding of the criteria. In summary, the AQB stated that the criteria always have required that mass appraisal experience comply with USP AP Standards Rule 6, and that States had a responsibility to make that determination.

While States, under the criteria, could accept experience affidavits from applicants for certification, States could not rely solely on the information contained in those affidavits. States have to make a reasonable effort to determine whether applicants performed their mass appraisal work, as referenced in those affidavits, in compliance with USP AP Standards Rule 6. The Board, since August 2001, failed to review mass appraisal experience claims to determine whether that experience conformed to USPAP Standards 6.

Florida's acceptance of experience affidavits also conflicts with ASC Policy Statement 10. On August 4, 1993, the ASC adopted its *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers*. ASC Policy Statement 10 B addressed the issue of validating education and experience claimed by appraiser applicants. Paragraph B. stated that, "State agencies, at a minimum, should have a reliable means of validating both education and experience credit claimed for certification or licensing." Paragraph B. further provided that, "the lack of routine verification procedures is both an invitation to potential fraud and a threat to the

integrity of a State's appraiser regulatory program." The ASC, in its June 7, 2004 field review letter, found that Florida failed to comply with paragraph B because it did not have a reliable means of validating experience credit claims since August 1, 2001. As noted above, while the State took remedial action regarding its "regular" appraisers, tax assessor applicants, since August 2001, still could qualify for certification on the basis of unsupported experience affidavits. Since January 1, 2005, that acceptance of unsupported experience affidavits from tax assessor applicants failed to comply with ASC Policy Statement 10 F. Paragraph F. prohibited States from accepting experience-related affidavits from applicants for certification.

To resolve this concern, the Department and Board need to:

2. Immediately cease awarding certified credentials to applicants relying on mass appraisal experience unless that experience conforms fully to the AQB's experience requirements for certification and ASC Policy Statement 10 B. and 10 F.;
3. Within 60 days from the date of this letter, identify, since August 2001, all appraisers who were issued appraiser credentials supported by mass appraisal experience;
4. Within 90 days from the date of this letter, determine whether the file for each appraiser identified in step two contains documentation to support conformance to AQB criteria and ASC Policy Statement IOB. and 10 F.;
5. Within 100 days from the date of this letter, send a letter to all appraisers determined to be deficient in step three requesting documentation of appraiser experience obtained since being issued an appraiser credential;
6. Within 120 days from the date of this letter, determine whether any of the appraisers identified in step three have failed to document AQB-qualifying experience for the credential held.
  - a. For each certified appraiser who fails to document the needed experience, begin the necessary steps to downgrade that appraiser to the licensed level. Also, provide a listing to ASC staff identifying each appraiser by name and credential number. Those licensed appraisers would be listed on the National Registry as "non-AQB compliant." Alternatively, the Board could recall existing certifications and conspicuously over stamp them with wording similar to "Not eligible to appraise federally related transactions." In this case, the appraiser's record on the National Registry would be changed from "Active" to "Inactive;" and
  - b. For each licensed appraiser who fails to document the needed experience, provide a listing to ASC staff identifying each appraiser by name and credential number. Those licensed appraisers would be listed on the National Registry as "non-AQB compliant." Alternatively, the Board could recall existing certifications and conspicuously over stamp them with wording similar to "Not eligible to appraise federally related transactions." In this case, the appraiser's record on the National Registry would be changed from "Active" to "Inactive";
6. Within 180 days from the Board's receipt of this letter, send the ASC a spreadsheet listing each appraiser identified in step one, and include each appraiser's status relative to this action plan; and

7. Amend Board regulation § 6J1-6.001(5)(b)5 and (7) to comply with the AQB certification criteria and ASC Policy Statement 10 B. and 10 F. Please keep us advised about your progress in this area.

- **Florida's complaint investigation and resolution process does not comply with Title XI and ASC Policy Statement 10 because complaints are not investigated and resolved in a timely manner.**

Although Florida has taken steps to address this concern since our previous field review, all complaints still are not investigated and resolved in a timely manner. The chart below summarizes recent complaint statistics:

<b>Field Review or Follow-up Review</b>	<b>Complaints received</b>	<b>Complaints outstanding</b>	<b>Complaints outstanding more than 1 year</b>
April 2001	914 (305/yr.)	Unknown	Unknown
April 2004	923 (308/yr.)	452	232 (51%)
October 2005	752 (501/yr.)	388	145 (37%)
November 2006	578 (533/yr.)	357	169 (47%)

We understand that 76 of the 169 complaints outstanding for more than one year involved fraud and flipping and/or complicated legal processes, such as appeals, where mandated timeframes govern the process. Also, an additional 20 of the aged complaints had been investigated and decisions reached, but were awaiting final orders. Notwithstanding these 96 cases, a substantial number of other cases were outstanding for more than one year, including cases from 2001-2004.

Since our previous field review, the Department hired two additional full-time attorneys, bringing to four the number of attorneys dedicated to the Program. However, one of the new attorneys was recently replaced, and the other new attorney position recently became vacant. Additionally, Counsel for the Board was replaced in August 2006, and the new Counsel has been on extended leave, causing final disposition of the 20 cases discussed above to be delayed.

An effective and timely complaint investigation and resolution program is critical to a State's effective supervision of its appraisers as required by Title XI. The Department and Board need to continue to devote the necessary time and resources to eliminate the backlog of aged cases and to process incoming complaints in a timely manner. In that regard, the Department and Board need to take effective steps to reduce staff turnover, particularly in the legal services area. To help monitor your progress, please continue to provide electronic copies of your complaint log quarterly to Denise Graves at [denise@asc.gov](mailto:denise@asc.gov). We will pay particular attention to your complaint investigation and resolution process during our next field review, which will occur in approximately 12 months.

7.

- **Florida approved continuing education courses that do not conform to AQB criteria.**

While on-site, we identified two Department approved continuing education courses that appeared inconsistent with the AQB criteria because the courses did not "ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising." These courses were "Real Estate Code of Ethics" and "Diversity." Both courses were approved for three hours of continuing education credit.

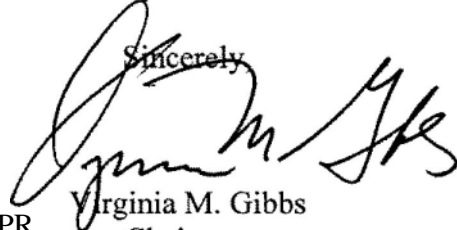
The Department needs to review these two courses to determine their compliance with AQB criteria. If the Department determines that these courses comply with AQB criteria, the Department needs to document its reasoning and determine whether any or all of the course subject matter is appraisal-related. If the Department determines that these courses do not comply with AQB criteria, the Department needs to rescind its approval of these courses.

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: Holly Benson, Secretary, DBPR  
 Michael Martinez, Special Counsel, DBPR  
 Thomas O'Bryant, Jr., Acting Director, Division of Real Estate  
 Beverly Ridenauer, Regulatory Specialist