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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 13, 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 your April 26 and June 27, 2007 responses to our March 2, 2007 field review letter. During our field review, we identified four areas that needed attention. Based on your response, it appears that the Florida Real Estate Appraiser Board (“Board”) has continued to make progress toward bringing its real estate appraiser regulatory program (“Program”) into substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended, (“Title XI”).

- **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 our 2006 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. To resolve this concern, the ASC directed the Department and Board to take certain corrective actions.

In response to steps one and seven, you stated in your May 3rd letter that the Department ceased awarding certified credentials unless the applicant’s experience conforms to AQB criteria and ASC Policy Statement 10B and 10F, and that the Board rescinded the two offending regulatory provisions effective April 18, 2007. In connection with step two, you identified 55 appraisers (24 certified general and 31 certified residential appraisers) and 13 applicants for certification who were issued appraiser credentials supported by mass appraisal experience since August 2001. In your letter, you stated that the Department would complete the remaining corrective actions by: (1) sending letters to affected appraisers and applicants by July 9, 2007; (2) identifying by August 13th those persons who failed to document sufficient experience to receive

or retain their certifications; and (3) providing the ASC by August 31st a listing of non-compliant persons “so that each of these licensees can be listed on the National Registry as ‘non-AQB compliant.’” We appreciate your prompt action to address this situation and look forward to learning about the results of your efforts.

We, however, need to clarify how the Department will be responding to step five.. As noted above, you stated that you would be providing us with a list of non-complying persons “so that each of these licensees can be listed . . . as ‘non-AQB compliant.’” In our field review letter, we instructed Florida, for each certified appraiser who failed to document the needed experience, to begin the necessary steps to downgrade that appraiser to the licensed level. Florida, however, does not have a license level credential; its only non-certified level credential is registration as an appraiser trainee. Therefore, we should have directed Florida to downgrade those non-compliant appraisers to “a non-certified” credential level. Because the National Registry contains only State licensed and certified appraisers, Florida appraisers downgraded to a non-certified level would have to be removed from the National Registry. Alternatively, we informed the Board and Department that they could recall existing certifications and conspicuously overstamp them with wording similar to “Not eligible to appraise federally related transactions.” For appraisers found to be non-compliant, please clarify whether you will be downgrading their credentials to appraiser trainee status or whether you will be reissuing overstamped certifications.

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

In our field review letter, we noted that, while Florida took steps to address this concern since our previous field review, all complaints still were not investigated and resolved in a timely manner. The chart below summarized recent complaint statistics:

Field Review or Follow-up Review	Complaints received	Complaints outstanding	Complaints outstanding more than 1 year
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 understood 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 governed the process. Also, an additional 20 of the aged complaints were 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.

The ASC directed the Department and Board to continue devoting 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 needed to take effective steps to reduce staff turnover, particularly in the legal services area. To help monitor your progress, the State was directed to provide electronic copies of complaint logs quarterly to Denise Graves at denise@asc.gov.

In your May 3rd letter, you agreed with our findings and stated that the Department had taken the following steps since our field review. First, the Department began cross training all Department attorneys to enable them to handle real estate appraisal cases. Second, the Department added two attorneys to the legal section. Finally, the Attorney General Office assigned a new counsel to the Program.

We appreciate these efforts and hope to see a significant improvement in the timeliness of your complaint investigation and resolution program when we perform our next field review in late November.

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

While on-site, we identified two Department-approved continuing education courses that appeared inconsistent with 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 needed to review these two courses to determine their compliance with AQB criteria. If the Department determined that these courses comply with AQB criteria, the Department needed to document its reasoning and determine whether any or all of the course subject matter was appraisal-related. If the Department determined that these courses did not comply with AQB criteria, the Department needed to rescind its approval of these courses.

In your May 3rd letter, you stated that the Department contacted the course provider, and that the provider agreed to discontinue offering these courses. Therefore, no further action regarding this item is necessary.

Our field review letter, your response, and any other correspondence between us regarding the field review now will become publicly available on our Web site. Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director

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