

Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 18, 2006

Dean Martinez, Secretary
Department of Financial and Professional Regulation
100 W. Randolph
Suite 9-300
Chicago, IL 60601

Dear Mr. Martinez:

Thank you for your cooperation and your staff's assistance in our follow-up review of Illinois' real estate appraiser regulatory program ("Program") on November 6, 2006. Our follow-up review focused on concerns identified during the Appraisal Subcommittee's ("ASC") May 2006 field review. During this follow-up review, we determined that Illinois had not cured the serious, longstanding concern regarding proper completion of the audit of appraisers who failed to document that their experience conformed to Appraiser Qualifications Board ("AQB") criteria. We also determined that, while Illinois had made some progress toward resolving concerns about its complaint investigation and resolution program, the program still failed to comply with Title XI because complaints were not investigated and resolved in a timely manner.

If Illinois fails to completely resolve the appraiser experience situation and to make substantial progress toward curing the complaint investigation and resolution weaknesses by the time we return for our mid-2007 field review, ASC staff will recommend that the ASC initiate a non-recognition proceeding against the State under § 1118 of Title XI, 12 U.S.C. 3347.

This letter sets forth the ASC's findings and the actions that the Division of Professional Regulation of the Department of Financial and Professional Regulation ("Division") needs to take to bring the Program into substantial compliance with Title XI.

Previous Findings, Current Status, and Necessary Actions

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

Previous Finding: In our May 2006 field review, we found that the Division's complaint investigation and resolution program had deteriorated markedly since our 2004 field review. Complaints were not being investigated and resolved in a timely manner. As a result, appraisers were not being supervised effectively, as required by Title XI.

Current Status: During our November 2006 follow-up review, we found that the Division corrected its electronic complaint log to reflect more accurately the number of cases open and closed. We also found that the number of outstanding complaints increased slightly from 230 to 243, and the number of complaints outstanding for more than one year decreased from 71 to 47.

Of the 47 complaints outstanding more than one year, two were more than two years old, and two were more than three years old.

Following is a summary of complaint information:

Field Review	Complaints received	Complaints outstanding	Complaints outstanding more than 1 year
November 2001	866 (288/yr)	25	20
November 2004	754 (251/yr)	126	18 (14%)
May 2006	401 (267/yr)	230	71 (30%)
November 2006	122 (244/yr)	243	47 (19 %)

The Division implemented a number of steps to reduce the backlog of outstanding cases and ensure that adequate legal and investigative resources were made available to the complaint investigation and resolution program. While Illinois made some progress in addressing this weakness, Division staff expressed concerns that available legal support would not be adequate to handle the workload once the investigators and compliance examiners get up to speed and begin referring more cases for prosecution. We share that concern.

Illinois needs to ensure that it continues its efforts to reduce the backlog of aged complaints and to process timely new complaints. This is especially critical in light of the Division staff's concerns

Necessary Actions: The Division needs to continue its efforts to reduce the backlog of outstanding cases. These efforts need to include assigning the investigative, legal, and administrative resources necessary to accomplish this goal. Please continue providing an electronic copy of the complaint log quarterly to Denise Graves at denise@asc.gov.

- **Illinois' temporary practice procedures do not comply with Title XI and ASC Policy Statement 5.**

Previous Finding: In our June 26th letter, we informed you that the Division took more than five business days to process most completed temporary practice applications. The processing of many completed applications took as long as ten to 16 days. ASC Policy Statement 5 requires that completed applications be approved (or denied) within five business days.

Current Status: During our follow-up review, we found that the Division had taken several steps to ensure compliance with ASC Policy Statement 5. Among other things, the Division placed a priority on processing temporary practice applications, established and implemented written policies and procedures for processing temporary practice applications, hired and assigned additional staff resources to process applications, and instituted monthly reviews to ensure that applications were being processed within five days of receipt. These actions appear to have been effective. With these changes, temporary practice application processing has been in compliance with Title XI and ASC Policy Statement 5.

Necessary Actions: None.

- **Illinois issued certified appraiser credentials to persons failing to document that their experience conformed to AQB certification criteria.**

Previous Finding: As discussed in our previous field review reports and letters, starting in July 2002, the Division awarded certified credentials supported by a combination of affidavits, appraisal logs, and letters to support the experience claims of appraisers upgrading from the eliminated licensed classification to a certified classification. The actions taken by the Division to process the high volume of licensed appraisers seeking certified credentials failed to comply with AQB criteria and Title XI.

In our January 2005 field review letter, the ASC directed the Division to take several actions to identify those appraisers who failed to comply with AQB criteria and take corrective actions. As a result, the Division identified 1,205 appraisers who obtained certified credentials between July 1, 2002, and November 30, 2004. Unfortunately, we discovered that, when reviewing the files of these appraisers, the Division used an incorrect standard to determine whether these certified appraisers complied with AQB criteria. In our November 2, 2005 follow-up review letter, we directed the Division to complete a new audit of the 1,205 appraiser application files using the correct criteria to measure experience and to take appropriate action in each case.

During our May 2006 field review, we found that Division staff completed a new audit of the 1,205 certified appraiser application files using the correct criteria. The Springfield staff determined that the files of 218 of the 1,205 certified appraisers lacked appropriate appraisal experience documentation. Springfield forwarded the files for the 218 non-complying appraisers to the Chicago office to complete the audit process and start disciplinary actions against appraisers who failed to respond or provide supporting documentation. The Chicago office completed the audits of the 218 appraisers. During our May 2006 field review, we reviewed the results of this second audit. Once again we found that the Division failed to appropriately apply AQB criteria when assessing the compliance of the 218 appraisers. As a result, in our June 26th letter, we directed the Division, once again, to review all 218 files and document its findings.

In its August 10th response letter, the Division notified us that it had completed a new audit of the 218 certified appraiser application files. The Division reported the following results of that audit:

1. One hundred and ninety-nine certified appraisers were AQB-compliant;
2. Sixteen certified appraisers were found to be non-AQB compliant. Five enforcement actions had been initiated, ten enforcement actions had been completed and the appraisers had been placed on Inactive status on the National Registry, and one enforcement action was in the process of being settled;
3. Three appraisers failed to have the necessary experience at the time the credential was issued, but had obtained experience since that time. The Division renewed their credentials with corrected issuance dates; and
4. One non-compliant appraiser was deceased. This file was not audited and not counted in the 218 total.

Current Status: During our follow-up review, ASC staff reviewed 45 files of appraisers determined by the Division to have met AQB criteria. We found that five of those files failed to contain documentation supporting that applicants met AQB experience criteria. One appraiser lacked enough months of experience; two lacked appropriate documentation for the number of hours and months being claimed; and two appraisers claimed experience that was not USPAP compliant. For example, one appraiser claimed hours spent as a “lead carpenter.” His experience log reflected hours of blueprint reading; material purchasing; installation; furniture costs; construction costs; room renovation; and 78 hours of “school” taking real estate appraisal courses. Two other applicants claimed real estate mass appraisal/*ad valorem* experience but failed to provide documentation to support compliance with AQB criteria.

Given the results of our review, we do not have confidence in the Division’s review of files referred from Springfield to Chicago.

Necessary Actions: To address this concern, the Division needs to:

1. Continue its enforcement efforts against the six certified appraisers who failed to provide documentation to support their experience claims;
2. Within 15 days of receiving our letter, conduct a new audit of the remaining certified appraiser application files. By correctly applying AQB criteria, identify those appraisers who failed to document the necessary experience to conform to AQB criteria;
3. Within 30 days of receiving our letter, have available for ASC review a spreadsheet detailing the audit and, if applicable, enforcement status of each of the audited appraisers;
4. Within 45 days of receiving our letter, begin enforcement action against any appraiser determined not to conform to AQB criteria; and
5. For those appraisers who did not have the necessary experience at the time the certified credential was issued, but who have obtained the requisite appraisal experience since that time, reissue the credentials with corrected effective dates.

ASC staff will review the results of this audit during our January 2007 visit. At that time, if we find that we cannot rely on the Division’s audit, we will have no choice but to change the “AQB Compliant” status on the National Registry to “Unknown” for all 218 appraisers. You should be aware that many financial institutions and other users of appraisal services will not accept work from appraisers with this “Unknown” indication on the National Registry.

- **Illinois did not maintain documentation to support the decision-making process for education course approvals.**

Previous Findings: During our May 2006 field review, we found that education course files contained adequate documentation to support the original Board action, but most files failed to contain documentation supporting subsequent renewals of the courses.

Additionally, we could not determine from the documentation whether three State-approved USPAP courses were acceptable to meet the AQB's 15-hour National USPAP Course requirement for qualifying education or the 7-hour National USPAP Update Course for continuing education. Also, we could not determine whether the State accepted these courses as support to renew appraiser credentials. Division staff agreed to request documentation on the three courses and to determine whether they met AQB certification requirements. It was unclear, at that time, whether any appraisers had taken these courses and relied on them to meet the AQB's certification criteria.

In our June 26th letter, the ASC directed the Division to take certain corrective actions regarding this concern.

Current Status: In response to our field review letter, Division staff documented that two of the three questionable courses presented no problems. One course was found to be an appropriate National USPAP Course taught by AQB Certified USPAP Instructors. And, the provider of the second course did not offer the USPAP course due to the failure to hire an AQB Certified USPAP Instructor.

The third course, a 15-hour USPAP course, was determined not to comply with AQB criteria. Four appraisers relied on this course and were issued certifications. In response to step four, the Division contacted the four appraisers and informed them that they must show proof within 60 days that they had taken an acceptable 15-hour National USPAP Course. The four appraisers complied. Fifteen applicants for certification have certification applications pending that rely on the course. The Division notified these applicants that their applications would not be processed until they provide proof of successfully completing an acceptable 15-hour National USPAP Course.

Additionally, the Division created written policies and procedures for processing education course evaluations and approvals. These policies and procedures appear to allocate responsibilities to the Chicago and Springfield offices so that they can better process, document, and coordinate the educational course approval process. While on site, we found that all education course files since the changes were implemented were well documented.

Necessary Actions: None.

- **2008 AQB Criteria**

Previous Findings: During our May 2006 field review, ASC staff found that Illinois plans to implement the 2008 AQB criteria changes using the firm date scenario, effective January 1, 2008. The Division attempted to have the applicable statute amended during the 2006 legislative session, but the bill was not adopted. In our June 26th field review letter, the ASC reminded the Division of the importance of adopting the 2008 AQB criteria changes on a timely basis and directed the Division to provide us with updates regarding the status of the Division's legislative and/or regulatory efforts to adopt the 2008 criteria.

Current Status: While on site, Division staff provided ASC staff with a copy of the proposed amendments to its regulations to implement the 2008 criteria changes. ASC staff will review the proposed rules and provide comments to the Division.

Necessary Actions: Provide the ASC a copy of the amended regulations once they are adopted.

If you wish to respond to our comments, please do so within 60 days from the date of this letter. 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 follow-up 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,

Ben Henson
Executive Director

cc: Dan Bluthardt, Director Division of Professional Regulation
Young Brockhouse, Licensing and Education Manager
Mary Anne Benden, Chief of Prosecution