

Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 13, 2006

Andrew Metcalf, Jr., Director
Department of Labor and Economic Growth
Bureau of Commercial Services
P.O. Box 30018
Lansing, MI 48909-7518

Dear Mr. Metcalf:

Thank you for your cooperation and your staff's assistance in the September 18-19, 2006 Appraisal Subcommittee ("ASC") follow-up review of Michigan's appraiser regulatory program ("Program"). The purpose of this review was to determine whether the Bureau of Commercial Services, Department of Labor and Economic Growth ("Department") and the Michigan Board of Real Estate Appraisers ("Board") had made progress toward resolving concerns identified during our 2004 field review.

In our August 17, 2004 field review letter, we identified two concerns that the Department and Board needed to address 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"). During our August 2005 and September 2006 follow-up reviews, we focused on your progress in resolving these two concerns. While Michigan resolved one concern, we continue to have serious reservations regarding the State's ability to adequately supervise its appraisers by investigating and resolving complaints in a timely manner.

ASC staff will return for a full field review of the Program in 2007. Should we not see substantial improvements in Michigan's Program at that time, ASC staff might recommend that the ASC consider initiating a non-recognition proceeding against Michigan under § 1118(b) of Title XI, 12 U.S.C. 3347(b) for the State's longstanding failure to adequately supervise its appraisers.

Previous Findings, Current Status, and Necessary Actions

- **Several Sections of the Department's regulations are inconsistent with the Appraiser Qualifications Board ("AQB") criteria.**

Previous Finding: While the Program, in practice, functioned in a manner consistent with AQB criteria, the Department needed to amend its regulations in three areas to conform to AQB criteria and to avoid conflicts between its regulations and practice.

Current Status: During late 2004 and 2005, the Board adopted regulatory changes to cure several of the conflicts with AQB criteria. Additionally, the Governor signed curative legislation regarding the remaining conflicts into law (Public Act 414) on September 29th. The Board needs to adopt implementing regulations.

Necessary actions: Please provide us a copy of the rules drafted to implement the new statutory revisions and keep us informed about the status of those rules.

- **A number of complaint cases have been outstanding for more than one year.**

Previous Finding: Michigan fails to adequately supervise its appraisers by failing to investigate and resolve complaints in a timely manner. This Program weakness is longstanding and has been documented in several previous field review letters.

We recognized that the Department made a number of changes to its complaint investigation and resolution process following our 2001 field review. Despite those changes, the number of outstanding complaint cases and cases outstanding for more than one year continued to increase.

During late 2004 and early 2005, the ASC and the Department exchanged a series of letters discussing our concern regarding Michigan's complaint investigation and resolution process and potential methods of improving the program. During our August 2005 follow-up review, we found that the Department had taken the following steps to expedite complaint investigation and resolution:

1. In 2004, assigned a "complaint coordinator" to coordinate and manage all appraiser cases on a full-time basis, and had the coordinator take 65 hours of appraisal education. The Department also encouraged him to attend appraisal organization meetings to understand and remain abreast of industry concerns;
2. In January 2005, established a 270-day standard for completing complaint investigations;
3. Added a third meeting to the 2005 Board meeting schedule and a fourth meeting to the 2006 Board meeting schedule; and
4. Improved its initial screening process to provide more efficient complaint handling by focusing on substantive complaints and resolving less complicated matters quickly, resulting in the more effective use of its scarce resources.

Current Status: Despite the Department's actions in 2005, the number of outstanding complaints and the number of cases outstanding for more than one year continued to increase. Following is a summary of complaint information from our 2004 field review and recent follow-up reviews.

Field Review	Complaints received in preceding review period	Open complaints	Complaints outstanding more than 1 year
Jun. 2004 (32 months)	416 (~162 per year)		61
Aug. 2005 (14 months)	199 (~170 per year)	244	80 (33%)
Sep. 2006 (11 months)	372 (~372 per year)	324	92 (28%)

In its continuing efforts to address this weakness, the Department, in May 2006, added another full-time employee as an initial screener and complaint coordinator for appraiser-related cases. In addition, the Department plans to add a contract Real Estate Investigator and Expert position to the staff.

During our follow-up review, we determined that one factor contributing to processing delays was related to Board members reviewing complaint files. Many complaints assigned to Board members for review were not reviewed and returned in a timely manner. Board members commented that personal demands and the limited number of appraisers on the Board contributed to the delays. The Board members stated that they had limited time to devote to this voluntary effort.

ASC staff expressed our concern that with the increasing number of complaints being filed with the Department, Board members could expect an increased workload. If Board members are unable to cope with the current workload, we have serious concerns about their ability to handle an increasing workload. As a result, the Board determined that the Department should obtain additional professional expertise over and above the addition of a new Real Estate Investigator and Expert.

Necessary actions:

1. The Department and Board need to take the necessary steps to ensure that all complaints are investigated and resolved in a timely manner, as required by Title XI and ASC Policy Statement 10; and
2. The Department needs to continue to submit quarterly complaint logs for our review.

Conclusion

We appreciate the Department's and Board's efforts to resolve the non-conforming statutory and regulatory provisions and to improve the complaint investigation and resolution process. We continue, however, to be concerned whether your efforts will be sufficient to remedy the longstanding inability to investigate and resolve complaints in a timely manner, especially given the recent increase in the number of complaints received. Should we not see substantial progress when we return for our 2007 field review, we might recommend that the ASC consider initiating a non-recognition proceeding against Michigan under § 1118(b) of Title XI, 12 U.S.C. 3347(b) for failure to adequately supervise its appraisers.

Please respond to our finding and recommendation within 60 days from the date 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 any questions.

Sincerely,

Ben Henson
Executive Director

cc: Jean Boven, Licensing Division Director
Archie Milben, Enforcement Division Director