

Appraisal Subcommittee

Federal Financial Institutions Examination Council

July 12, 2007

Mr. George F. Brooks III, Chairman
New Hampshire Real Estate Appraiser Board
State House Annex, Room 426
25 Capitol Street
Concord, NH 03301-6312

Dear Mr. Brooks:

Thank you for your staff's assistance and cooperation in our May 15, 2007 follow-up review of New Hampshire's real estate appraiser regulatory program ("Program"). This letter sets forth the Appraisal Subcommittee's ("ASC") findings and the actions that need to be taken bring the Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI").

Our follow-up review focused on concerns identified during the ASC's August 2006 field review. During this follow-up review, we determined that the New Hampshire Real Estate Appraiser Board ("Board") made substantial progress toward implementing the curative steps outlined in our October 16, 2006 field review letter. It appears that the Board is making progress toward investigating and resolving complaints in a timely fashion. More work, however, remains to be accomplished in this area. We will return in September 2007, to conduct our next full field review of your Program.

Previous Findings, Current Status, and Recommended Action

- **New Hampshire failed to comply with Title XI and ASC Policy Statement 10 by not investigating and resolving complaints in a timely manner.**

Previous Finding: The ASC found that, just prior to our August 2006 field review, the Board closed 11 of its oldest cases as being "too old." (We address this issue in the next section of this report.) As a result, the number of complaints outstanding should have been 28, and the number and percentage of aged complaints should have been 16 and 57%, respectively

This concern was noted in our 2003 field review. In its December 16, 2003 field review response letter, the Board stated its commitment to resolving this concern, and that it was initiating several actions to improve its Program. During our August 2006 field review, we found that the Board was unsuccessful in these efforts.

In our October 5, 2006 field review letter, we notified New Hampshire that it needed to complete certain curative actions.

Current Status: Since our August 2006 field review, the Board has improved the timeliness of investigating and resolving complaints. During the nine months since our field review, the Board took positive steps to reduce the complaint backlog. First, the Board contracted with a certified general real estate appraiser to act as case coordinator to assist in the complaint investigation and

resolution process. The case coordinator facilitates the complaint process by reviewing complaints and assigning them to an investigator or recommending closure to the Board. Second, the Board established a group of appraisers who have agreed to investigate outstanding complaints on a contractual basis. Finally, the Board established written, comprehensive investigation and resolution procedures.

Following is a summary of complaint information:

Field Review	Complaints received during review period	Complaints outstanding	Complaints outstanding more than 1 year
October 2000	39	7	0
August 2003	52 (17/year)	41	16 (39%)
August 2006	51 (17/year)	28	16 (57%)
May 2007	13 (19/year)	11	5 (45%)

While on-site, ASC staff reviewed all complaint files closed since our August 2006 field review. We found that the files were well documented, investigations thorough, and case summaries comprehensive. Dispositions also appeared to be fair and equitable. Based on our review, it appears that New Hampshire had taken important steps towards addressing this area of concern.

Necessary Action: The Board needs to continue its efforts to ensure that complaints are investigated and resolved on a timely basis in accordance with ASC Policy Statement 10 E.

- **The Board closed complaint files without appropriate investigation and/or resolution.**

Previous Finding: The ASC found that, just prior to our field review, the Board, at its July 12, 2006 meeting, closed 11 of the oldest complaint cases. The Board based its blanket decision to close all outstanding cases originating in 2002, 2003, and 2004 on the basis that the files “were too old to investigate.” We found the blanket closure of these cases particularly troublesome because some complaints contained allegations of fraud by the appraisers.

While on-site in 2006, ASC staff reviewed all 11 cases. In our view, valid reasons existed for the closure of only one of those cases. In our October 5, 2006 field review letter, we directed New Hampshire to complete certain curative actions.

Current Status: While on-site, ASC staff reviewed the 11 cases that the Board was directed to reopen. Eight of the cases were investigated and closed. The files were well documented and decisions were supported. Six of the eight cases were closed because no violations were found. One case was closed with a warning letter being sent to the respondent. Another case was closed because it was incomplete. The Board requested that the complainant submit a completed “grievance form,” and the complainant never filled out the form. Three of the eleven cases still were under investigation.

Necessary Action: The Board needs to continue its efforts to investigate and resolve the three remaining complaints as soon as possible.

- **New Hampshire did not have supporting documentation in the complaint files.**

Previous Finding: In addition to the 11 complaints discussed above, we looked at 19 other complaint files. Most of these files lacked sufficient supporting documentation. In some cases, no apparent effort was made to independently support or refute the assertions of the complainant or respondent. It did not appear that the Board consulted listing services or public records and did not employ any investigative techniques. Most files did not have an investigative report or an appraisal review report.

In our October 5, 2006 field review letter, we directed New Hampshire to complete certain curative actions.

Current Status: Since our August 2006 field review, the Board took positive steps to improve its complaint investigation and resolution process and file documentation. The Board established and implemented written procedures to ensure that complaint files contained sufficient documentation to support the investigation and resolution.

While on-site, ASC staff reviewed all complaint files that were closed since our August 2006 field review. We found that the files were well documented, investigations thorough, and case summaries comprehensive. Dispositions also appeared to be fair and equitable.

Necessary Action: None.

- **Some disciplinary actions imposed by the Board appeared to be inconsistent.**

Previous Finding: Because of the lack of supporting documentation in the complaint files, it was difficult to determine whether disciplinary actions were fair and equitable. Nevertheless, we found three cases that had similar violations where the Board's actions appeared inconsistent.

The Board acknowledged that sanctions had been meted out inconsistently. The Board was aware of this problem and had started tracking sanctions with the view towards creating a disciplinary matrix. While on-site, we offered our assistance to the Board in locating information from other States that use disciplinary matrixes.

In our October 5, 2006 field review letter, we directed the Board to continue its efforts to assure consistent and equitable disciplinary actions and to forward to the ASC its disciplinary matrix and policies.

Current Status: The Board still is in the process of finalizing a written disciplinary "Matrix of Sanctions." The Board is treating the matrix as a living document and is carefully considering current sanctions and adding them to the matrix. While on-site, ASC staff reviewed all complaint files that were closed since our August 2006 field review. We found that the files were well documented, investigations thorough, and case summaries comprehensive. Dispositions also appeared to be fair and equitable.

Necessary Action: None.

- **The Board failed to appropriately address a complaint against a Board Member.**

Previous Finding: The Board received a complaint against one of its members on February 23, 2005. Previously, the Board's policy had been to immediately forward complaints filed against Board Members to a third party for investigation. In this case, however, the Board chose not to investigate the complaint because the Board believed that the complainant filed the complaint in retaliation.

To address this concern, the ASC directed the Board to take steps immediately to investigate and resolve the complaint against the Board member fairly and expeditiously. Also, we directed the Board to establish and follow an appropriate complaint investigation and resolution process for complaints against Board members to ensure that those complaints are handled expeditiously, fairly, and impartially.

Current Status: The Board hired an independent, outside investigator to investigate the complaint filed against a Board member. The outside investigator found no USPAP violations, and the complaint was closed. ASC staff found that the complaint investigation was thorough, the file was well documented, and the decision to close the case without action was supported by the facts.

The Board established written procedures for future complaints filed against Board members. Under those procedures, Board staff is authorized immediately to employ an outside investigator to review the complaint. The investigator must complete the review within three months and provide a report on the investigation to the full Board at its next scheduled meeting.

Necessary Action: None.

- **Board regulations specify excessive fees for temporary practice permits.**

Previous Finding: For the most part, New Hampshire's temporary practice program was in compliance with Title XI and ASC Policy Statement 5. Board regulations regarding the State's temporary practice fee, however, were based on an appraisal report, rather than an assignment basis, as required by ASC Policy Statement 5. The fee for one report was \$150, \$250 for two reports, and \$350 for three reports, regardless of whether they were part of the same assignment. This fee structure created situations in which the fees assessed by the Board could exceed \$150 per assignment. Title XI prohibits a State from imposing "excessive" fees for temporary practice permits and requires the ASC to determine what fees are excessive. As provided in ASC Policy Statement 5, the ASC determined that fees exceeding \$150 per assignment were excessive.

This concern also was addressed in our September 12, 2003 field review letter. In response, the Board voted to amend its fee structure so that temporary practice fees were \$150 per assignment, regardless of the number of appraisals. While New Hampshire implemented the new fee structure in practice, the Board failed to adopt corresponding changes to its regulations.

To address this concern, the ASC directed the Board to amend its regulations to conform to ASC Policy Statement 5 and to reflect the Board's current temporary fee collection practices.

Current Status: The Board was in the process of working with State officials to finalize the draft rules addressing, among other things, the fee structure for temporary practice permits. Over the last nine months, the Board worked closely with ASC staff to draft the rule changes that relate to temporary practice fees and implementing the 2008 AQB criteria changes.

Necessary Action: The Board needs to adopt the draft rule changes as quickly as possible.

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: Maureen Tully, Administrative Assistant