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Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 11, 2007

Sharron Knotts, Executive Director
West Virginia Real Estate Appraiser
Licensing and Certification Board
2110 Kanawha Blvd. East, Suite 101
Charleston, WV 25311

Dear Ms. Knotts:

Thank you for your May 2, 2007 response to the Appraisal Subcommittee's ("ASC") November 15, 2006 field review letter regarding our October 2006 field review of West Virginia's real estate appraiser regulatory program. In your letter you responded to each of the three concerns outlined in our letter.

- **The Board's legislative rules do not reference the most current version of the Uniform Standards of Professional Appraisal Practice ("USPAP").**

Our November 15, 2006 field review letter stated that West Virginia legislative Rule § 190-2-14.1 recognizes the 2005 edition of USPAP and § 190-4-12 recognizes the 2004 edition of USPAP. The 2006 version, which became effective July 1, 2006, had not been adopted. To address this concern, the Board needed to:

1. Take the necessary action to immediately update its regulations to reflect the 2006 edition of USPAP. If necessary, the Board should work with legal counsel to explore the Board's options to have this issue addressed on a priority basis in the 2007 legislative sessions; and
2. Work with its Assistant Attorney General to develop, propose, adopt, and implement statutory and/or regulatory language that would allow incorporation of the most current edition of USPAP by reference.

In your response, you stated that the Board is working with the Assistant Attorney General to develop, propose, adopt, and implement statutory and/or regulatory language that would allow incorporation of the most current edition of USPAP by reference. We appreciate these efforts and request that you forward to us a copy of the proposed statutory and/or regulatory language, when drafted, and the final statutory and/or regulatory language when they are adopted.

You did not, however, inform us what actions the Board took to immediately update its regulations to reflect the 2006 edition of USPAP. Please notify us of those actions within 10 days of the date of this letter.

- **The Board's legislative rules regarding reinstatement of an appraiser from Inactive status do not conform to Appraiser Qualifications Board ("AQB") criteria.**

Our November 15, 2006 field review letter stated that the Board's legislative rules allowed an appraiser to place his or her credential into Inactive status for an unlimited amount of time, provided the appraiser pays the annual fees. The regulations require that to reactivate a license or certification from Inactive to Active status, the appraiser must take 14 hours of continuing education. Also, any appraiser who has been on Inactive status for more than two years must take the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete all continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course. While the Board's rules are inconsistent with AQB criteria, ASC staff did not find any Inactive appraisers who had been re-activated inappropriately.

To address this concern, the Board needed to initiate the necessary amendments to Board legislative rules to ensure compliance with AQB criteria.

In your response, you stated that the Board finds the AQB's interpretation regarding waivers and deferrals of continuing education to be vague and confusing and until this issue is clarified, the Board will not initiate amendments to its legislative rule.

The ASC has found no vagueness or confusion to the Interpretation. If the Board has questions regarding the Interpretation and its implementation, the Board should contact ASC General Counsel Marc Weinberg. Please be aware that should the Board reactivate a certified appraiser credential from Inactive to Active status without conforming to AQB Criteria, that credential is not valid under Title XI.

The Board needs to initiate the necessary amendments to Board legislative rules to ensure compliance with AQB criteria. Please notify us of the Board's intention regarding this concern.

- **The Board needs to ensure that complaints are investigated and resolved in a timely manner.**

Our November 15, 2006 field review letter stated that, at the time of our field review, there were 22 outstanding complaints. Of these, eight had been outstanding for more than one year. Of these eight cases, several had been outstanding for more than two years. ASC Policy Statement 10 provides that complaints should be investigated and resolved within one year from receipt, except in unusual, documented circumstances.

In your response, you stated that the Board shares our concern regarding timely complaint resolution and has initiated actions to address the weaknesses in the complaint process. We understand that the Board has obtained a commitment from the Attorney General's office to increase the amount of time the Assistant Attorney General devotes to Board complaints. You also stated that the ASC needs to recognize that an individual's due process rights in disciplinary matters is also an issue in resolving complaints within a specified timeframe.

There is nothing in ASC Policy Statement 10, or the ASC's implementation of that Policy, that is inconsistent with appraisers' due process rights under Federal and State law. While States must perform their complaint processing duties in a timely manner, timeliness depends on the circumstances. If special documented circumstances exist, the timely processing of a complaint is not expected to occur within one year of receipt. For example, if a Board decision were appealed to court of law or equity, then that appeal would qualify as special documented circumstances.

Again, thank you for your response. Our field review letter, your response, and any other previous correspondence between us regarding the field review are now publicly available on our Web site. Please contact us if you have further questions.

Sincerely,

Ben Henson
Executive Director

cc: David Shields, Chairman