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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 26, 2007

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

Dear Mr. Metcalf:

Thank you for the cooperation of the Department of Labor and Economic Growth, Bureau of Commercial Services ("Department") and the Michigan Board of Real Estate Appraisers ("Board") in the September 16-18, 2007 Appraisal Subcommittee ("ASC") review of Michigan's real estate appraiser regulatory program ("Program").

As discussed in more detail below, because of the State's serious, longstanding inability to investigate and resolve appraiser-related complaints in a timely manner, the State has failed to adequately supervise its appraisers as required by Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI") and ASC Policy Statement 10 E., thereunder. As a result, if the State does not cure this deficiency in a timely manner, the ASC may initiate a non-recognition proceeding against Michigan under § 1118 of Title XI, 12 U.S.C. 3347, and 5 CFR part 1102, subpart B. In addition, we identified two new instances of non-compliance with the Appraiser Qualifications Board's ("AQB") continuing education criteria that require your correction. We will closely monitor your efforts to remedy these deficiencies throughout the year.

- **Michigan's complaint investigation and resolution program did not comply with Title XI and ASC Policy Statement 10 E.**

At the time of our field review, many complaint cases remained unresolved. Based on the Department's complaint log, we developed the following summary statistics:

Field Review Cycle	Complaints received	Complaints outstanding	Complaints outstanding more than 1 year
June 2004 (32 months)	416 (162 per year)	Unknown	61 (? %)
Aug 2005 (14 months)	199 (170 per year)	244	80 (33%)
Sept 2006 (11 months)	372 (372 per year)	324	92 (28%)
Sept 2007 (12 months)	245 (245 per year)	332	163(49%)

The ASC cited Michigan for slow complaint investigation and resolution for the past seven years, beginning with the ASC's April 15, 2000 field review letter.

As shown above, Michigan experienced a slight increase in the number of complaints outstanding, but the number of aged complaints increased significantly. Roughly one half of the complaints outstanding (163 of 332) were more than one year old. Two complaints were

received in 2002, four in 2003, eleven in 2004, 39 in 2005, and 107 in 2006. None of these complaints involved any special documented circumstances under ASC Policy Statement 10 E., which would have justified resolution delays. Department staff indicated that an unusual and unexplained surge in the number of complaints received occurred in late 2006. Staff believed this increase helped to offset the positive effects of changes made in complaint processing over the last few years, including:

- Assigning a “complaint coordinator,” beginning in 2004, to coordinate and manage all appraiser cases on a full-time basis, and providing the coordinator with 90 hours of appraisal education and the opportunity to attend appraisal industry meetings to better understand and remain abreast of industry concerns;
- Establishing a 270-day goal for completing complaint investigations, after January 2005;
- Adding a third meeting to the 2005 Board meeting schedule and a fourth meeting in 2006 and 2007;
- Improving the efficiency of the initial complaint screening process by separating substantive, more complex complaints from routine complaints and resolving those routine complaints on a more timely basis;
- Requesting Board members to complete their reviews of complaint materials within 30 days and creating procedures to track complaint review assignments;
- Hiring a full-time employee in May 2006, as an initial screener and complaint coordinator for appraiser-related cases, and having her take appraisal-related courses; and
- Hiring a contract appraiser in August 2007, to assist in reviewing and investigating complaints.

In addition, Department staff provided ASC staff with very detailed quarterly complaint logs, noting the status of all complaints.

Notwithstanding these steps, the Board and Department appeared to have made only minimal progress towards alleviating complaint processing delays. To avoid ASC initiation of a non-recognition proceeding against the State, the Department and Board need to continue providing us with quarterly complaint logs and must ensure that the State’s complaint investigation and resolution process complies fully with ASC Policy Statement 10 E.

- **Michigan’s regulations regarding the reinstatement of appraiser credentials were inconsistent with AQB criteria.**

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 requirements that would

have been required if the credential holder was in an active status, including the most recent edition of the 7-hour National USPAP update course.

Section 339.2629(2) of the State's regulations allows appraisers with credentials that have been lapsed for more than one but less than three years to reinstate their credentials by earning only 14 hours of continuing education. The Department also strongly encouraged, but did not require, reinstating appraisers to complete a 7-hour National USPAP update course, or its equivalent. During our field review, we learned that 78 certified appraisers reinstated their credentials under this rule provision between September 1, 2005, and September 18, 2007.

To cure this situation, the State needs to take the following steps:

1. Immediately cease reactivating the credentials of certified appraisers without proof that the affected appraisers had completed the necessary continuing education under the AQB interpretation;
 2. Within 30 days of your receipt of this letter, review the records of all certified appraisers who reactivated their certifications since September 2005, and identify any certified appraisers who failed to comply with the AQB interpretation;
 3. Within 45 days of your receipt of this letter, contact each non-compliant appraiser and request that the appraiser submit to the Department, within 60 days, proof of having completed the necessary continuing education;
 4. Within 30 days from the close of the 60-day period, begin the process of downgrading the credential of any certified appraiser failing to provide such evidence under step three, or recall the appraiser's certified credential and reissue the credential with the phrase, "Not Eligible to Appraise Federally Related Transactions" conspicuously stamped on its face and change the appraiser's AQB compliant status on the National Registry to "No";
 5. Within 120 days of your receipt of this letter, provide the ASC a written report detailing the actions taken and identifying the affected appraisers; and
 6. Amend § R 339.2629(2) of your regulations as soon as possible to comply with the AQB interpretation and keep us informed about the status of the rule change.
- **Michigan's regulations did not require appraisers renewing a credential within a year of original issuance to complete continuing education.**

An AQB interpretation issued in May 2006, and effective January 1, 2007, requires appraisers credentialed for 185 days or more to complete 14 hours of continuing education. Appraisers credentialed for less than 185 days do not need to complete continuing education for that period.

Section R 339.23327 of the State's regulations does not require real estate appraisers who upgrade their credentials to complete any continuing education requirements for the first renewal of the new credential. Michigan renews credentials on July 31st of each year. Under the regulation, an appraiser upgrading to a certified credential during the first 185 days of the renewal cycle would not be required to complete any continuing education to qualify for the first renewal of his or her certification, which is inconsistent with the AQB's May 2006 interpretation. While on-site, it appeared to ASC staff that, since January 1, 2007, no appraisers were inappropriately certified under this regulation.


To remedy this inconsistency, the State needs to:

1. Immediately cease renewing the credentials of newly upgraded certified appraisers without proof that the affected appraisers had completed the necessary continuing education under the AQB interpretation;
2. Within 30 days of your receipt of this letter, review the records of all certified appraisers who upgraded their credentials to certified status since January 1, 2007, and identify any certified appraisers who failed to comply with the AQB interpretation;
3. Within 45 days of your receipt of this letter, contact each non-compliant appraiser and request that the appraiser submit to the Department, within 60 days, proof of having completed the necessary continuing education;
4. Within 30 days from the close of the 60-day period, begin the process of downgrading the credential of any certified appraiser failing to provide such evidence under step three, or recall the appraiser's certified credential and reissue the credential with the phrase, "Not Eligible to Appraise Federally Related Transactions" conspicuously stamped on its face and change the appraiser's AQB compliant status on the National Registry to "No";
5. Within 120 days of your receipt of this letter, provide the ASC a written report detailing the actions taken and identifying the affected appraisers; and
6. Amend § R 339.23327 of your regulations as soon as possible to comply with the AQB interpretation and keep us informed about the status of the rule change.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days following the receipt 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 further questions.

Sincerely,

 Virginia M. Gibbs
Chairman

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