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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

May 2, 2008

Mr. Stephen P. Giocondo  
New Jersey State Real Estate Appraiser Board  
P.O. Box 45032  
124 Halsey Street  
Newark, New Jersey 07101

Dear Mr. Giocondo:

Thank you for the New Jersey State Real Estate Appraiser Board's ("Board") cooperation and assistance in the January 7-8, 2008 Appraisal Subcommittee ("ASC") review of the New Jersey real estate appraiser regulatory program ("Program"). Based on our review, New Jersey needs to address two concerns 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"). In addition, the State should also amend several sections of its statutes and regulations to correct certain references.

- **New Jersey's temporary practice procedures did not conform to Title XI and ASC Policy Statement 5.**

New Jersey failed to comply with Title XI and ASC Policy Statement 5 in three respects. First, temporary practice permits were not being issued within five business days after the receipt of a completed application. Second, in at least half of the temporary practice files reviewed, ASC staff found that the State did not assign the appropriate permit term. We found that some permits were issued for less than six months and others were backdated to reflect the applicant's requested "start" date, despite actually being issued well after that date. Lastly, New Jersey did not have procedures in place to allow for an easy extension, if the temporary practice holder needed additional time to complete the assignment.

It appeared that employee turnover and insufficient training led to these deficiencies. Program staff was not aware of the five-business day processing period set forth in ASC Policy Statement 5 or that backdating a temporary practice permit's effective date was inappropriate. We also explained to the Board and Program staff that ASC Policy Statement 5 requires States to ensure temporary practice permits are valid for at least six months and that temporary practitioners must be provided with an effortless method to obtain an extension of time to complete their assignment, if requested. Program Staff advised that they were not aware of any requests for temporary practice extensions. The current New Jersey statute allows the Board to issue a temporary permit for up to 420 days; therefore, the Board should easily be able to adopt regulations to correct the latter two concerns.

To remedy these concerns, the Board needs to:

1. Develop and implement procedures to ensure that temporary practice permits are issued within five business days and that the permit is valid for at least six months;

2. Within 60 days from the date of this letter, provide the ASC with a copy of those procedures;
  3. Initiate the process for adopting a regulation to implement an effortless method for temporary practice permit holders to obtain an easy extension;
  4. Keep us advised about the status of the regulation as it goes through the rulemaking process; and
  5. Provide us a copy of the regulation as finally adopted.
- **New Jersey regulations allow renewing appraisers additional time to complete the required continuing education in certain circumstances, which does not conform to AQB criteria.**

In September 2005, the AQB adopted an interpretation to its criteria stating that waivers may not be granted to credential holders who failed to meet the continuing education requirements at the time of renewal. In May 2006, the AQB amended that interpretation slightly to allow State appraiser regulatory agencies to renew credential holders returning from active military duty for a period of up to 90 days, pending completion of all continuing education requirements.

While on site, ASC staff discussed with the Board, Program staff and legal counsel that the regulation at §13:40A-5.10 was not AQB compliant. That regulation enables the Board to grant renewing appraisers facing an incapacitating illness, military assignment or other extraordinary circumstance additional time to complete the required continuing education. Program staff identified two individuals who were granted an extension since the interpretation's effective date of September 2005. These appraisers were not returning from active military duty. Program staff provided us with copies of the letters that were sent to these certified appraisers, as part of their approval, advising them that they will remain inactive on the National Registry until the continuing education requirements have been met. This approach is appropriate until the State amends the regulation. We note, however, the State may keep those returning from active military duty as active for 90 days after the renewal date, while completing the necessary continuing education.

To remedy this concern, New Jersey needs to:

1. Initiate the process for amending the regulations as soon as possible to ensure that the State's requirements conform to AQB Criteria.
2. Keep us advised about the status of the amendments as they go through the rulemaking process; and
3. Provide us a copy of the regulations as finally adopted.

- **Statutory and regulatory amendments should be made for correction and further clarification to certain references.**

New Jersey has some minor amendments that need to be made to their statutes and regulations to correct certain references. Specifically, New Jersey statutes at §45:14F-10 and §45:14F-11 need to be corrected to identify the Appraisal Qualifications Board (AQB) as the entity that sets the criteria for acceptable experience and education instead of the ASC or the Appraisal Foundation. The same incorrect references appear in the renewal requirements in §45:14F-18. It should be noted that although the statutes contain incorrect references, the corresponding regulations are correct.

New Jersey regulation at §13:40A-5.4 requires all licensed and certified real estate appraisers to “attend a minimum seven hour length course on the Uniform Standards of Professional Appraisal Practice every two years.” The State should amend this regulation to clarify that appraisers must complete the seven-hour National USPAP Update Course, or its equivalent. We recognize that although current New Jersey regulation would technically allow a credential holder to take a USPAP course greater than seven hours, New Jersey, in practice, only accepts the seven-hour National USPAP Update Course in accordance with AQB criteria.

While on site, ASC staff discussed the various amendments that needed to be made to the statutes and regulations with the Board, Program staff and legal counsel. They did not realize that the statutes and regulations contained these errors and agreed to make the necessary amendments, when appropriate.

Please provide us copies as statutory and regulatory amendments are proposed and adopted to address these concerns.

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: James Hsu, Executive Director