



## TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

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February 29, 2008

Virginia M. Gibbs, Chairman  
Appraiser Subcommittee  
Federal Financial Institutions Examination Council  
2000 K Street, Suite 310

**RE: RESPONSE TO DECEMBER 26, 2007, LETTER FROM THE APPRAISAL SUBCOMMITTEE (“ASC”)  
REGARDING REVIEW OF THE STATE OF TEXAS REGULATORY PROGRAM (THE “PROGRAM”)**

Dear Chairman Gibbs:

In your letter of December 26, 2007, four specific concerns were raised by the ASC. The Texas Appraiser Licensing and Certification Board (“Board”) is committed to addressing each of the matters identified and to operating a conforming appraiser licensing, certification, and oversight program. Detailed responses are set out below, corresponding to the findings stated in the ASC’s letter.

- **Texas complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E. because complaints were not investigated and resolved in a timely manner.**

The Board agrees to provide quarterly complaints logs to Denise Graves of the ASC’s staff. The Board is committed to the elimination of the backlog of aged complaints. The Board is committed to addressing newly received complaints on a timely basis.

As noted, the percentage of complaints outstanding more than one (1) year has not changed materially since 2005 and is still too high at its current figure of 37%. However the number of incoming complaints has increased 289% over the same period. These numbers convey very clearly that the Board’s enforcement staff is making tremendous headway in addressing cases, but larger forces, such as the fallout of the so-called “subprime mortgage crisis,” mortgage fraud related complaints, and other significant issues are causing caseloads to escalate to previously unforeseeable levels. It is anticipated that these trends will continue at best and accelerate at worst.

- ❖ Within the constraints of its appropriations, the Board is taking steps to address the increasing level of complaint activity. All staff investigators are now full-time. All are certified appraisers. The Board is, by state law, an “independent subdivision” of the Texas Real Estate Commission (“TREC”). Deloris Kraft-Longoria, the Board’s most senior investigator, has become Division Director, now reporting directly to Tim Irvine, Administrator of the TREC and Commissioner of the Board. Ms. Kraft-Longoria’s primary charge will be directing the complaint review and investigation activity of the Board.
- ❖ Historically, the Board’s enforcement staff has been organized by region. Management is looking to re-organize so that certain staff is dedicated to the timely resolution of new cases while other staff focuses on the elimination of the backlog of aged cases.
- ❖ Board staff has developed enforcement rules which should streamline the process and provide guidelines for the assessment of administrative penalties and sanctions. As the number of cases involving suspected mortgage fraud continues to rise, these new rules would better enable staff to address unethical behavior promptly. The rules would also require licensees responding to

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complaints involving competency issues to provide written responses with the work file documentation needed to identify specific areas of noncompliance with the Uniform Standards of Professional Appraisal Practice ("USPAP") where remedial education or other corrective actions may be in order.

- ❖ The Board has statutory authority to create peer investigative committees comprised of licensed or certified appraisers, each committee having a Board member as well. As these committees become more systematic in the way that they assist in addressing enforcement cases, chiefly reviewing competency cases for identified areas under USPAP that need to be addressed, staff will be able to expedite the resolution of those cases.

- **The State's temporary practice fee was excessive and did not comply with ASC Policy Statement 5.**

Staff has drafted a rule revision to bring the fee in line with the ASC policy Statement. The Board has, at today's meeting, initiated the rulemaking process to adopt a complying fee.

- **Texas regulations allowed for 180-day deferral of continuing education for servicemen returning from active duty, which is inconsistent with AQB criteria.**

Staff has drafted a rule revision to bring the continuing education requirements in line with the ASC policy Statement. The Board has, at today's meeting initiated the rulemaking process to adopt a complying rule.

- **Texas did not review appraisal work product for each applicant for certification in violation of ASC Policy Statements 10 F. and G.**

Staff has discussed the ASC's requested corrective action with Denise Graves. Based on those discussions, the Board staff has advised the appropriate persons in the Office of the Governor and the Board's oversight committees in the State Senate and the State House of Representatives of the ASC's request for action to conform state law to the ASC's policy statements.

In order to address both steps one and two under this finding, Board staff proposes to implement a policy of performing experience audits on 100% of the applications for certification received on or after February 1, 2008 in order to comply with ASC Policy Statements 10 F. and G. This change is being effectuated following consultation with the Office of the Governor and the appropriate personnel on the legislative oversight committees. The "purpose clause" of the Texas Real Estate Appraiser Act, found at TEX. OCC. CODE, §1103.002, states:

The purpose of this chapter is to conform state law relating to the regulation of real estate appraisers to the requirements adopted under Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The change being made is undertaken in the spirit of this purpose clause. We understand further that it is the ASC's legal position that its policies are pre-emptive and controlling. In adopting our revised internal policy we expressly note that we are neither rejecting nor concurring with this legal position. Furthermore, we re-urge the concerns expressed in our letters of May 24 and December 14, 2007. Finally, we note that operating under budgetary and personnel limitations set by the Texas Legislature, dedicating resources to this new task will take those resources away from another essential function, resolving complaints. We strongly encourage the ASC to explore the most efficient and effective possible ways to achieve its ends. In addition to the concerns expressed in our prior letters, we submit that appropriate sampling techniques, as opposed to 100% audits, ought to provide reasonable assurances, especially when combined with express representations made under oath.

Please do not hesitate to contact Tim Irvine or Deloris Kraft-Longoria, if there is anything further that you require regarding these matters.

Respectfully

Clinton P. Sayers  
Chairman

cc: Denise Graves  
Larry D. Kokel  
Jamie Ratliff  
Malcolm Deason  
Rusty Faulk  
Dona Scurry  
Shirley Ward  
Mark McAnally  
Tim Irvine  
Deloris Kraft-Longoria