



State of Utah  
Department of Commerce  
Division of Real Estate

JON HUNTSMAN, JR.  
Governor

FRANCINE GIANI  
Executive Director

DEREK B. MILLER  
Real Estate Division Director

September 23, 2007

VIRGINIA M GIBBS  
CHAIRMAN  
APPRAISAL SUBCOMMITTEE  
FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL  
2000 K STREET NW STE 310

RE: Appraisal Subcommittee Review of Utah's Real Estate Appraisal Regulatory Program  
February 27-28, 2007

Dear Chairman Gibbs:

As requested I am responding, on behalf of the Utah Division of Real Estate, to your letter dated July 23, 2007 (received in our office on July 26, 2007). Your letter pertains to the Appraisal Subcommittee's review of Utah's real estate appraisal regulatory program conducted on February 27-28, 2007. We appreciate receiving your written findings and the thoughtful deliberation you have given to several issues discovered during this audit.

Generally we found the audit findings and conclusions to be reasonable. However, the deadlines to resolve the "concerns" were neither reasonable nor realistic. Although I would hope that the woefully inadequate amount of time was not intentionally insulting, the unrealistic deadlines do indicate a lack of sensitivity and understanding of the amount of work required to carry out the Subcommittee's policies/decision/findings and the limited available resources. Meeting the imposed deadlines is particularly difficult while our relatively small staff is already working overtime to comply with new educational requirements going into effect at the first of the year.

As you have asked, we are responding to your letter and including where we believe some flexibility/consideration should be afforded.

I have responded below to each of the three concerns expressed in your letter:

- The State did not investigate and resolve complaints in a timely manner as required by ASC Policy Statement 10E.

The State of Utah is working to more effectively address the issue of complaint investigation and resolution. In addition to the positive steps indicated in your letter, the Division recently hired an additional full time Certified Residential investigator to work to resolve complaints in a more timely fashion. With this new investigator the Utah Division of Real Estate now has three full time investigators reviewing complaints and conducting

OCT 04 2007

investigations. We are confident that we are now able to effectively resolve the complaint backlog and keep current with new appraisal complaints.

The division will comply with your request for quarterly complaint logs and reports describing the status of our efforts to reduce the complaint backlog and to process newly received complaints on a timely basis.

- Utah issued certified credentials to ad valorem tax assessors on the basis of experience affidavits in violation of ASC Policy Statement 10F.

The Division essentially agrees with the statements described in your letter regarding ad valorem tax assessors.

A further comment however is provided to place the Division's conduct in the proper context. At the Fall 2006 Association of Appraiser Regulatory Officials (AARO) conference, we became aware of the prohibition against States accepting unsupported experience affidavits for ad valorem appraiser applicants for certification. In addition to discussing this matter with the ASC staff both at the AARO meeting and subsequently up until the time of the audit in February no constructive alternative was provided by the Subcommittee as to how the State of Utah could meet the requirements for ad valorem tax assessors. It seemed to us that your staff understood that no affidavits could be used, but were at a loss to provide a rational resolution to the challenge of reviewing ad valorem appraiser work experience.

Only after considerable efforts on our part and countless hours of input by members of the Utah Appraiser Licensing and Certification Board and volunteer appraisers was the Division able to independently develop a system that we believe now satisfies the Subcommittee's concerns.

You note in your letter that "...the Division and Board proposed amendments to its rules, which were adopted on May 29, 2007 and became effective June 1, 2007. The amendments removed offending rule provisions and added several new provisions" (referring to items (2) and (3) of your audit findings report letter dated July 23, 2007). The "offending rule provisions" were adopted on May 3, 1999 and have been in use ever since that time. A copy of Division rules (including the "offending rule provisions") have been previously provided to your staff in conjunction with at least two previous audits. No mention of any problem associated with these rules was ever mentioned to the Division prior to learning of this matter at the AARO conference in October of 2006.

Given your findings, we agree that requesting documentation of the experience obtained for ad valorem applicants processed between January 1, 2005, and November 1, 2006 is not an unreasonable request. Although the Division feels strongly that the imposed timetable is burdensome, we are largely on our way to accomplishing this task.

October 1, 2007

- **Utah allowed fulltime investigators with the Division to be granted certifications without documented conformance to AQB experience criteria**

The Division is somewhat perplexed that this item would now be identified by the ASC as an area of concern. The rule allowing fulltime Division investigators to be awarded experience points has been in place since May 3, 1999 with no concern expressed by your staff despite having completed at least two audit cycles. Staff investigators were awarded points based on 200 points for every 18 months of fulltime service. In other words these investigators were required to conduct and complete appraisal investigations and reports for at minimum 4 ½ years to meet the experience requirement to become a Certified General appraiser. Division investigators routinely and vigorously have had their work evaluated by Division supervisory staff, legal counsel and members of the Appraisal Board.

Notwithstanding these concerns, the Division intends to comply with the Subcommittee's requirement to obtain and review documentation from the its current and former Investigators, for compliance with AQB criteria. However, due to practical constraints (i.e., much of the investigators' work product must be retrieved from state archives) the Division does need additional time (more than the 15 days provided) to fully comply with this requirement.

We await your response to our letter regarding these matters.

Sincerely,

Derek B. Miller  
Division Director