

■ ■ ■ ■ ■ ■

Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 28, 2008

Ms. Elissa Runyon, Chairperson
Virgin Islands Real Estate Appraisal Board
Department of Licensing & Consumer Affairs
Property & Procurement Building
#1 Sub Base, Room 205
Charlotte Amalie, St. Thomas, USVI 00802

Dear Ms. Runyon:

Thank you for the cooperation and assistance of the Virgin Islands Real Estate Appraisal Board ("Board") and the Department of Licensing and Consumer Affairs ("Department") in the December 6-7, 2007 Appraisal Subcommittee ("ASC") review of the U. S. Virgin Islands' ("USVI") real estate appraiser regulatory program ("Program"). Based on our review, USVI needs to address three 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").

The Program has weaknesses in three areas. As discussed below, the primary problem relates to the Board's longstanding failure to achieve a quorum. The Board also must amend its rules and regulations that are inconsistent with Appraiser Qualifications Board ("AQB") criteria and Board practice, and finally, the Board has not achieved vendor approval for the new 2008 appraiser examinations.

- **The Board has not achieved a quorum at a Board meeting since January 2005, impairing the Board's ability to take legal actions.**

Virgin Island statutes require four of seven Board members to constitute a quorum. Three of the seven Board positions have been vacant for extended periods. A fourth member has moved off-island and no longer attends meetings. A fifth member has missed meetings because of family health issues. As a result, the Board has not achieved a quorum since January 2005. This failure to achieve a quorum has significantly impaired the Board's ability to take legal actions.

The Board's inability to attain a quorum has been a longstanding concern. We first became aware of this issue in March 2001. In a May 11, 2001 letter to Governor Charles Turnbull, the ASC noted the Board vacancies and the Board's inability to achieve a quorum as one of the factors contributing to the Program's weaknesses. On October 10, 2001, Commissioner Rutnick also wrote the Governor requesting his assistance in resolving this matter. Neither the ASC nor the Department received a response from the Governor's office.

During our March 2004 field review, ASC staff met with Assistant Counsel Adams and discussed this longstanding concern. Mr. Adams agreed to assist the Board in obtaining necessary gubernatorial appointments. However, this, too, did not happen. In response to our May 14, 2004 field review letter, the Board submitted to the Governor's office names of individuals willing to serve on the Board. Once again, there was no response from the

Governor's office.

Throughout this entire period, the two or three Board members who attended these technically unofficial meetings took action, and expected the Board to subsequently ratify those actions. However, the Board never became legally constituted.

Subsequent to this field review, on February 8, 2008, we learned that the Governor nominated two new Board members and reappointed two Board members. These positions still need to be confirmed by the USVI Legislature. While this is a positive development, even if those persons are confirmed, the Board would consist of a bare quorum, with three Board positions remaining vacant. Should one Board member be unable to attend meetings, Program operations, once again, would become impaired.

To address this concern the Board and Department need to:

1. Contact the Governor as soon as possible and request that he begin the process of filling the three remaining Board vacancies;
 2. Ensure that the four current appointments are confirmed by the legislature as soon as possible; and
 3. Ensure that a quorum exists at Board meetings. Towards that end, the Board and staff need to ensure that meeting dates are acceptable to all members, the meeting room is equipped with teleconferencing capabilities, Board members are reminded of meeting dates, and meetings without a quorum are rescheduled promptly.
- **Several sections of the Board's rules and regulations are inconsistent with AQB criteria.**

While several sections of the Board's Rules and Regulations are inconsistent with AQB criteria, in practice, the Board followed the practice of properly enforcing AQB criteria. The conflict between the Program's regulations and practice regarding the AQB criteria may expose the Program to adverse consequences and could cause confusion among applicants and users of appraisal services.

Our April 3, 2006, and March 2, 2007 field review response letters offered detailed comments to the USVI's Rules and Regulations. In September 2007, ASC staff met with USVI Board members and staff and reviewed in detail draft amendments to USVI's rules and regulations. During this field review we found that there had been no further progress on the amendments to the rules and regulations due to the Board's inability to attain a quorum.

To address this concern, the Board needs to attain a quorum and amend its regulations to bring them into conformance with AQB criteria.

- **The Board has not obtained vendor approval for the 2008 AQB examination.**

Prior to January 1, 2008, USVI used an examination deemed equivalent by the AQB. The examination was administrated with paper and pencil by the Board staff. After January 1, 2008, the Board plans on using the AQB's newly developed examination. While on site, ASC staff discussed with the Board and staff the need to start immediately the examination vendor approval process with the AQB.

Subsequent to this field review, the Board Chair notified ASC staff that the long time, primary staff support person to the Board, Assistant Commissioner Lisa Davis, left the Program. This position must be appointed by the Governor.

To address this concern the Department and Board need to:

1. Petition the Governor as soon as possible to fill the vacant Assistant Commissioner position;
2. Begin the process to obtain examination vendor approval from the AQB; and
3. Meet as soon as possible and initiate the rulemaking process to implement the 2008 AQB criteria changes;

Please notify Jenny Tidwell, ASC Policy Manager, at (202) 441-1538 or jenny@asc.gov as soon as the four appointed Board members are confirmed by the Legislature and the Assistant Commissioner position has been appointed. Ms. Tidwell plans to attend the first full meeting of the Board to provide training and assistance on Title XI and the ASC's oversight.

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: John P. de Jongh, Jr., Governor
Kenrick Robertson, Commissioner