

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@akleg.gov

SUMMARY OF: A Sunset Review on the Department of Commerce, Community, and Economic Development, Board of Certified Real Estate Appraisers, June 10, 2013

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the Board of Certified Real Estate Appraisers' (board or BCREA) activities. The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if it has been operating in an effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(19), the board will terminate on June 30, 2014, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

We conclude that BCREA's termination date should be extended. Regulating and licensing real estate appraisers benefits the public's interest. The board provides reasonable assurance that individuals licensed as real estate appraisers are qualified. We recommend the board's termination date be extended only four years to June 30, 2018, which is half of the maximum allowed in state law. The reduced extension is in recognition of the increase in the board's federally mandated responsibilities. In the upcoming years, federal law requires the board to expand its regulation responsibilities to include appraisal management companies.

The Division of Corporations, Business and Professional Licensing (DCBPL) materially addressed the prior sunset audit recommendations; however, additional deficiencies were noted. This audit makes two recommendations to improve the administrative support to the board.

FINDINGS AND RECOMMENDATIONS

1. DCBPL's director should continue efforts to improve the investigative case management system's integrity and confidentiality.
2. DCBPL's director should take steps to improve administrative support to BCREA.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@akleg.gov

August 14, 2013

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the Board of Certified Real Estate Appraisers' activities, and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF CERTIFIED REAL ESTATE APPRAISERS

June 10, 2013

Audit Control Number
08-20084-13

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Per AS 08.03.010(c)(19), the Board of Certified Real Estate Appraisers is scheduled to terminate on June 30, 2014. We recommend that the legislature extend the termination date to June 30, 2018.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| Objectives, Scope, and Methodology | 1 |
| Organization and Function | 5 |
| Background Information..... | 7 |
| Report Conclusions..... | 11 |
| Findings and Recommendations..... | 13 |
| Analysis of Public Need | 17 |
| Appendix A - Board of Certified Real Estate Appraisers Survey Results | 25 |
| Agency Responses | |
| Department of Commerce, Community, and Economic Development | 31 |
| Board of Certified Real Estate Appraisers | 33 |
| Legislative Auditor’s Additional Comments..... | 35 |

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the Board of Certified Real Estate Appraisers' (board or BCREA) activities to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(19), the board will terminate on June 30, 2014, and will have one year from that date to conclude its administrative operations.

Objectives

The four, central audit objectives were:

1. Determine whether the board's termination date should be extended.
2. Determine whether the board is operating in the public's interest.
3. Determine whether the board has exercised appropriate regulatory oversight of licensed real estate appraisers.
4. Provide the current status of recommendations made in the prior sunset audit.

Scope and Methodology

The assessment of board operations and performance was based on criteria established in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

The audit analyzed the board's operations and activities from FY 06 through May 2013.

During the course of the examination, the following were reviewed and evaluated:

- Applicable statutes and regulations to identify board functions and responsibilities. Changes made during the audit period were reviewed to determine whether the changes enhanced or impeded board activities. Changes were also evaluated for consistency with statutory purpose and to ascertain if the board operated in the public's interest.
- Board members' applications and resumes filed with the Office of the Governor's Boards and Commissions to verify that members met statutory requirements.

- Board meeting minutes, budget documents, and annual reports to understand board proceedings and activities as well as the nature and extent of public input.
- Public notice documents to ascertain whether public notices for board meetings and regulatory changes were published as required by Alaska Statutes and Division of Corporations, Business and Professional Licensing (DCBPL or division) policy.
- The prior sunset audit and a previous DCBPL special audit to identify issues affecting the board.

The current board chair and an additional real estate appraiser board member were interviewed to gain an understanding of the board's activities, level of public input, and changes in fee levels. The division director, various other division personnel, and several employees in the information technology section of the Department of Commerce, Community, and Economic Development's (DCCED) Administrative Services Division were also interviewed to assess the adequacy of division support for board activities.

A survey of active board licensees with United States addresses was conducted to obtain licensee opinions on: regulatory changes that should be made, whether the board operated effectively and in the public interest, the board's performance in addressing important issues, and whether the board is duplicating the efforts of other organizations.

A random sample of licensing files was selected from active licenses to assess statutory and regulatory compliance for initial and renewal licensing. In determining sample size, the applicable controls were considered moderately significant; the inherent risk was considered limited, and the risk of noncompliance was considered low. Twenty-five of the 266 licenses active on March 1, 2013, were randomly selected and examined.

A random sample of investigation files and documentation was selected to assess the efficiency and effectiveness of the investigation process. In determining sample size, the applicable controls were considered moderately significant, and the inherent risk was considered limited. Prior audits found errors with the case management system, and the extract of the investigations database showed evidence of system errors. Therefore, the risk of noncompliance was considered moderate, and a 15 percent sample was determined sufficient to detect errors. Five of 30 board-related cases open or opened between July 2008 and January 2013 were randomly selected and examined.

Board and division internal control procedures relating to various audit objectives were assessed, including procedures over licensing, investigations, and board proceedings. Controls over the investigative case management system and the licensing database were also assessed.

Inquiries regarding board-related complaints were made with the following organizations:

- Alaska State Commission for Human Rights;
- Department of Administration's Division of Personnel and Labor Relations;
- United States Equal Employment Opportunity Commission;
- DCCED's Commissioner's Office;
- Office of the Ombudsman;
- Office of Victims' Rights; and
- Office of the Governor' Board and Commissions.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

Board of Certified Real Estate Appraisers (board or BCREA)

Alaska Statute 08.87.010 establishes BCREA as a five member board with four of the five members designated as follows: a certified general real estate appraiser, a certified residential real estate appraiser, a mortgage banking executive, and a member of the general public. The fifth board position is undesignated in Alaska Statutes and is commonly referred to as the “*at large*” position.

Alaska Statute 08.87.020 defines the board’s authority, purpose, and scope of work. Under this statute, BCREA duties include establishing:

1. Examination specifications for certification as a real estate appraiser;
2. Rules of professional conduct to establish and maintain high integrity standards in the real estate appraisal profession; and
3. Regulations necessary to carry out the statutory purposes, including those necessary to comply with the requirements of 12 U.S.C. 3331–3351.¹

BCREA is authorized to certify general real estate appraisers, residential real estate appraisers, and institutional appraisers.² The board also registers appraiser trainees and issues courtesy licenses to real estate appraisers who are certified or licensed in other states but are temporarily practicing in Alaska.

Certification qualifications for general or residential real estate appraisers include education related to real estate appraisal, experience in real property appraisal, and passing a board-endorsed examination. Requirements for becoming a registered trainee include 75 hours of board approved instruction in courses related to real estate appraisal theory or practices.

Real estate appraisal certificates are renewed in the odd-numbered fiscal years. In order to renew their certification, appraisers must complete a renewal application, provide evidence

Exhibit 1

**Board of Certified Real Estate Appraisers
as of March 19, 2013**

Donna H. Rulien
Chair, Licensed General Real Estate Appraiser

Clinton H. Lentfer
Licensed General Real Estate Appraiser

Lance H. Cook
Licensed Residential Real Estate Appraiser

April Moore
Public Member

James C. Picard
Mortgage Banking Executive

¹Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331–3351).

²While BCREA has the authority to certify institutional appraisers, as of the date of this report, no individuals have applied for this certification.

of continuing education, and remit a license fee. Individuals certified or licensed as appraisers in other jurisdictions can obtain a courtesy license to conduct appraisals in Alaska. Such licenses are issued for a single appraisal assignment, and individuals are limited to only two courtesy licenses every 12 months.

Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing (division or DCBPL)

DCBPL provides administrative and investigative assistance to the board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings. Investigative assistance is available upon request, or the division may initiate an investigation if an individual appears to have engaged or is about to engage in a practice over which the division has authority. The division can issue an order that an individual stop a practice, bring an action in Alaska's Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and subpoena witnesses and records.

Alaska Statute 08.01.065 mandates that DCCED adopt regulations to establish the amount and manner of fee payments for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by statutes.

BACKGROUND INFORMATION

An *appraisal* is a decision-making tool used to facilitate a real estate transaction. The primary role of appraisals in the loan underwriting process is to provide evidence that the collateral value of the property is sufficient to avoid losses on loans if the borrower is unable to repay the loan. The primary intent of federal statutory appraisal reform is to protect the federal deposit insurance funds – and by extension, mortgage lenders – from avoidable losses.

In 1986, the House Committee on Government Operations issued a report concluding that faulty and fraudulent appraisals contributed significantly to the losses that the federal government incurred during the savings and loan “*crisis*.”³ In response to the crisis, Congress passed the 1989 *Financial Institutions Reform, Recovery, and Enforcement Act* (FIRREA). Congress set out provisions in Title XI of FIRREA that were intended to ensure federally related transactions had appraisals that were (1) performed by real estate appraisers who met minimum qualification criteria, and (2) conducted in compliance with uniform standards.⁴

Title XI also established a complex oversight structure for real estate appraisals and appraisers. The oversight structure involves private, federal, and state entities as discussed below.

The Appraisal Foundation

The Appraisal Foundation, a nonprofit educational organization composed of groups from the real estate industry, provides the organizational framework for the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board (AQB) to carry out the responsibilities related to Title XI. The Appraisal Foundation was founded in 1987 by eight leading professional appraisal organizations in the United States to foster professionalism in real estate appraising. The ASB and AQB establish minimum standards for developing and reporting an appraisal and the minimum criteria for certifying appraisers in connection with federally related transactions.

The Appraisal Subcommittee (ASC)

The ASC was established by FIRREA as the principal federal agency responsible for monitoring the activities of the real estate appraisal industry oversight structure. The ASC is a subcommittee of the Federal Financial Institutions Examination Council and is responsible for:

³*Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market*, H.Rep. 99–891 at 4–6 (Sept. 25, 1986), House Committee on Government Operations, 99th Congress, 2nd session.

⁴*Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (12 U.S.C. 3331 - 3351).

- Monitoring and reviewing the Appraisal Foundation’s practices, procedures, activities, and organizational structure and providing grants to the Appraisal Foundation in amounts deemed appropriate to help defray costs associated with Title XI activities;
- Monitoring the requirements established by states, territories, and the District of Columbia as well as monitoring appraiser regulatory agencies’ appraiser certification and licensing;
- Monitoring the requirements established by the federal financial institution regulators regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of state licensed or state certified appraisers;
- Maintaining a national registry of state licensed and state certified appraisers who may perform appraisals in connection with federally related transactions; and
- Transmitting an annual report to Congress regarding the preceding year’s ASC activities.

Under Title XI, states may establish their own agencies to certify and license appraisers. In 1990, the Alaska State Legislature created the Board of Certified Real Estate Appraisers (board or BCREA) in response to the 1989 FIRREA. Although the board is responsible for the State’s appraiser certifications, the ASC has a role in ensuring Alaska’s qualifications satisfy Title XI objectives. Federal agencies and federal financial institutions may not accept appraisals from BCREA certified appraisers if the subcommittee issues a written finding that:

- BCREA has failed to recognize and enforce Title XI standards, requirements, and procedures;
- BCREA does not have enough authority to carry out its functions under Title XI; or
- BCREA does not make decisions on appraisal standards and qualifications or supervise appraiser practices in a method that carries out Title XI’s purposes.

In 2010, the *Dodd-Frank Reform Act* significantly amended Title XI. The *Dodd-Frank Reform Act* increased states’ licensing and reporting responsibilities by requiring states to report to the ASC, increased continuing education requirements, and added responsibility for the registration and supervision of appraisal management companies. The registration and supervision of appraisal management companies will substantially increase the division and BCREA’s duties. Specifically, the *Dodd-Frank Reform Act* requires appraisal management companies to:

1. Register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which such company operates;

2. Verify that only licensed or certified appraisers are used for federally related transactions;
3. Require appraisals coordinated by an appraisal management company to comply with the Uniform Standards of Professional Appraisal Practice; and
4. Require appraisals to be conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the *Truth in Lending Act*.

(Intentionally left blank)

REPORT CONCLUSIONS

In developing our conclusion regarding extending the Board of Certified Real Estate Appraisers' (board or BCREA) termination date, we evaluated board operations using the 11 factors set out in AS 44.66.050. Under the State's "*sunset*" law, these factors are to be used in assessing whether an agency has demonstrated a public policy need for continuing operations.

Overall, we conclude that BCREA is protecting the public's interest by effectively licensing and regulating residential real estate appraisers, general real estate appraisers, trainee real estate appraisers, and courtesy licensed real estate appraisers. The board monitors licensees and ensures that only qualified individuals practice. Furthermore, the board develops and adopts regulatory changes to improve the real estate appraisal profession in Alaska.

In accordance with AS 08.03.010(c)(19), BCREA is scheduled to terminate June 30, 2014. We recommend the board's termination date be extended only four years to June 30, 2018, which is half of the maximum allowed in state law. The reduced extension is in recognition of the increase in the board's federally mandated responsibilities. In the upcoming years, federal law requires the board to expand its regulation responsibilities to include appraisal management companies.

Although the Division of Corporations, Business and Professional Licensing (DCBPL) materially addressed the administrative support findings noted in the 2009 sunset audit, additional administrative deficiencies were noted and further improvements are recommended. (See Recommendation No. 2.) A new recommendation is also made for DCBPL to improve the investigative case management system. (See Recommendation No. 1.)

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

The Board of Certified Real Estate Appraisers (board or BCREA) 2009 sunset audit⁵ included three recommendations. The prior recommendation that BCREA and the Department of Commerce, Community, and Economic Development (DCCED) take timely corrective action in response to Appraisal Subcommittee (ASC) findings has been resolved. Both individuals not previously in compliance with ASC requirements submitted additional documentation and were found to be in compliance.

The prior recommendation that the Division of Corporations, Business and Professional Licensing's (division or DCBPL) professional licensing administrative officer take steps to improve administrative support was materially addressed. Meetings were appropriately public noticed, fee analyses support was maintained, and indirect costs were accurately allocated. However, additional deficiencies in administrative support were noted as described in Recommendation No. 2.

The prior recommendation that BCREA and staff within the Office of the Governor work together to increase the pool of qualified board applicants was resolved. Since 2009, all board vacancies have been filled within three months.

Recommendation No. 1

DCBPL's director should continue efforts to improve the investigative case management system's integrity and confidentiality.

DCBPL's investigative case management system does not fully support efficient case management. The system was purchased with the expectation that it would be an "off the shelf" product with immediate functionality as a case management tool. However, the system does not entirely meet the investigation unit's needs.

When the investigative case management system was implemented in 2010, division management identified many system deficiencies. These ranged from significant security, reporting, and conversion problems to various inefficiencies in case management processing. Deficiencies were caused by a lack of procedures and software limitations.

While some of the deficiencies were addressed through a policies and procedures manual dated May 2012, other problems require software fixes by the vendor. A contract signed in June 2012 has allowed the division to work with the vendor to address software issues. The vendor was tasked with improving the investigative case management system's efficiency

⁵Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Board of Certified Real Estate Appraisers, December 7, 2009, audit control number 08-20064-10.

and reliability in several areas. Division management reported that these improvements are in the testing phase and should be effective by the end of June 2013.

However, other problems persist. Security related to case confidentiality remains weak as each investigator may view and alter other investigators' cases. Though investigators are discouraged from viewing cases to which they are not assigned, they have access to all investigative files. The investigative case management system's deficiencies have also affected case management efficiency. Investigators reported that the case management system may fail to respond, which results in lost work. Additionally, the system's reporting function did not consistently produce reliable information.

The duty to investigate occupational licensing complaints is statutorily assigned to DCBPL. The efficiency with which complaints are investigated is one of the evaluation criteria used in the sunset legislative oversight process. Specifically, AS 44.66.050(c) requires examining:

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

The deficiencies in the investigative case management system impede the division's ability to provide investigative support to the board.

We recommend DCBPL's director continue efforts to improve the investigative case management system's integrity and confidentiality.

Recommendation No. 2

DCBPL's director should take steps to improve administrative support to BCREA.

Inadequate administrative support impeded the board's ability to efficiently carry out its duties. The following deficiencies were noted:

- The board was not consistently provided adequate fiscal information. As documented in meeting minutes, the board made several requests for information related to its annual expenditures and revenues before receiving the requested data.
- The board recommended and the division adopted a fee change that did not comply with a cap placed on courtesy licenses by the Appraisal Subcommittee (ASC). These fees were capped at \$150, but regulations were approved to raise the fees to \$300. In the following year, the ASC discovered the fee increase during a federal compliance audit. The error was subsequently corrected through a regulation change.

- In three of five BCREA investigative cases examined, significant delays in either starting or completing investigations were noted. Delays were attributed to a large workload, though, in one case, documents mailed by a licensee had been misplaced in the investigative unit.

Although the above deficiencies are not individually significant, when considered together, they indicate improvements in administrative support are needed.

Federal regulations and oversight add a level of complexity to BCREA administration. Despite this complexity, administrative resources allocated to the board are limited because of the relatively small number of BCREA licensees. According to DCBPL management, the BCREA licensing examiner has historically covered three licensing programs, and one supervisor oversees 22 different licensing programs. As a result, there is little or no coverage during licensing examiner absences.

DCCED is statutorily responsible⁶ for providing administrative, budgetary, and investigative support to the board. We recommend DCBPL's director take steps to improve administrative support to BCREA.

⁶Alaska Statute 08.01.050 describes DCCED's administrative duties.

(Intentionally left blank)

A ANALYSIS OF PUBLIC NEED D

The following analyses relate to the public need factors defined in the “*sunset*” law, AS 44.66.050(c). These analyses were not intended to be comprehensive but to address those areas we were able to cover within the scope of our audit.

As part of the audit, a survey was conducted of Board of Certified Real Estate Appraisers (board or BCREA) licensees. All active licensees with addresses in the United States (260 as of January 23, 2013) were provided the survey, and 69 (26 percent) responded. The survey questions and responses are presented in Appendix A.

Determine the extent to which the board, commission, or program has operated in the public interest.

The board provided reasonable assurance that real estate appraiser licensees were competent and qualified to practice by promulgating and enforcing regulations. From FY 10 through FY 12, the board revised seven regulations. The changes updated continuing education requirements for license renewal to clarify the process and to comply with new federal guidelines for appraisers.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

During the audit period, the board met at least once a year as required by Alaska Statutes. A quorum was maintained at all meetings and vacancies did not hamper board proceedings.

Board members expressed concerns that the Division of Corporations, Business and Professional Licensing (division or DCBPL) licensing examiner position was not adequately staffed during extended absences and position vacancies. According to DCBPL management, division staff is assigned to perform the licensing examiner’s duties during absences or vacancies, but significant workloads prevent more than minimal coverage. This finding is further discussed as Recommendation No. 2.

Only 36 percent of licensee respondents rated the board’s effectiveness between “*good*” and “*excellent*.” Some survey responses suggest licensees do not consistently receive prompt replies to inquiries. However, the rating may pertain to DCBPL rather than to the board as questions are generally posed to division staff rather than the board. Seventy-nine percent of respondents reported that the board’s effectiveness has either remained the same or increased over the last four years.

As shown in Exhibit 2, licensing fees fluctuated significantly during the audit period. Alaska Statute 08.01.065(c) requires “*that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*” In response to a deficit at the end of FY 10, fees for licenses increased in FY 11. FY 13 brought additional fee increases for all license types except courtesy licenses, which are capped by federal regulations. Fifty-four percent of licensee survey respondents believe that annual licensing fees are unreasonable. In general, increases in licensing fees were driven by investigative and legal costs.

Exhibit 2

| BCREA License Fees FY 09 through FY 13 | | | | |
|---|--------------|--------------|--------------|--------------|
| <u>License Type</u> | <u>FY 09</u> | <u>FY 11</u> | <u>FY 12</u> | <u>FY 13</u> |
| Initial and Renewal Licenses | \$ 300 | \$ 850 | \$ 850 | \$ 1,050 |
| Trainee Licenses | 50 | 250 | 250 | 450 |
| Courtesy Licenses | 75 | 300 | 150 | 150 |
| Applications | 50 | 250 | 250 | 450 |

Source: BCREA annual reports.

Exhibit 3 (page 19) presents a schedule of board revenues and expenditures from FY 10 through March 2013. The amounts were provided by DCBPL management. Division staff restated all occupational board financial activity to adjust for the over allocation of DCBPL indirect costs to occupational boards as identified by a 2011 special audit.⁷ Exhibit 3 is unaudited and provided for general informational purposes.

Board operations were impeded by deficiencies in DCBPL’s investigative case management system. (See Recommendations No. 1.)

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

During the audit period, no statutory changes were recommended by the board. Seventy-nine percent of survey licensee respondents believed existing statutes met licensees’ needs and protected the public’s interest.

⁷Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011, audit control number 08-30063-11.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

From FY 10 through FY 13, the board held between three and five meetings per year, which exceeded the minimum of one annual meeting required by state law. An analysis of all 15 board meetings held during the audit period showed meetings were published on the State's Online Public Notice System for all but one meeting.⁸ Interested individuals were encouraged to attend meetings or submit written comments for review

Exhibit 3

| Board of Certified Real Estate Appraisers Restated Schedule of Revenues and Expenditures FY 10 through March 31, 2013 (Unaudited) | | | | |
|--|--------------|--------------|--------------|--|
| | <u>FY 10</u> | <u>FY 11</u> | <u>FY 12</u> | <u>July 1, 2012 - March 31, 2013⁹</u> |
| Licensing Revenue | \$ 22,875 | \$ 203,055 | \$ 42,190 | \$ 30,850 |
| Direct Expenditures | | | | |
| Personal Services | 50,733 | 65,321 | 78,181 | 26,595 |
| Travel | 10,479 | 10,138 | 8,534 | 2,767 |
| Contractual | 59,383 | 87,668 | 56,720 | 32,203 |
| Supplies | 425 | 150 | 233 | 36 |
| Total Direct Expenditures | 121,020 | 163,277 | 143,668 | 61,601 |
| *Indirect Expenditures | 14,166 | 11,311 | 15,739 | 11,804 |
| Total Expenses | 135,186 | 174,588 | 159,407 | 73,405 |
| Annual Surplus (Deficit) | (112,311) | 28,467 | (117,217) | (42,555) |
| Beginning Cumulative Surplus (Deficit) | 101,666 | (10,645) | 17,823 | (99,394) |
| Ending Cumulative Surplus (Deficit) | \$ (10,645) | \$ 17,822 | \$ (99,394) | \$ (141,949) |

Source: DCBPL management.

*FY 13 indirect costs are estimated based on the prior fiscal year's amount.

⁸The meeting was a teleconferenced disciplinary action meeting. All parties involved in the disciplinary action were in attendance and no other board business was discussed.

⁹The majority of BCREA licensing revenue is received during the license renewal period which occurs at the end of the fiscal year. Since this schedule only includes FY 13 revenues received from July 2012 through March 2013, the majority of FY 13 licensing revenue is not included.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Upcoming meeting times, proposed regulations, and regulation changes were published on the State’s Online Public Notice System. The board allotted time for public comment at each board meeting. Meeting minutes were made available on the board’s website.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims’ rights or the office of the ombudsman have been processed and resolved.

No board-related complaints were filed with the State’s Office of the Ombudsman, Office of Victims’ Rights, Office of the Governor, or Department of Commerce, Community, and Economic Development’s (DCCED) Commissioner’s Office from July 2008 through January 2013. Thirty complaints against board licensees or applicants were either open or opened by DCBPL between July 2008 and January 2013. As of February 2013, 27 of the 30 complaints were closed.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Only 41 percent of licensee survey respondents rated their experience in applying for or maintaining professional licensure as either “good” or “excellent.” Another 49 percent rated the experience as “fair” or “average.” Negative comments submitted as part of the survey were mainly about the license fee increases.

From FY 10 through FY 12, the board issued 115 new licenses. Exhibit 4 shows the number of licenses issued each year as reported in board annual reports.

Exhibit 4

| Number of Initial Real Estate Appraiser Licenses Issued FY 10 through FY 12 | | | | |
|--|--------------|--------------|--------------|--------------|
| License Type | FY 10 | FY 11 | FY 12 | Total |
| General Real Estate Appraiser | 4 | 4 | 12 | 20 |
| Residential Real Estate Appraiser | 5 | 8 | 5 | 18 |
| Trainee | 3 | 5 | 2 | 10 |
| Courtesy | 28 | 21 | 18 | 67 |
| | 40 | 38 | 37 | 115 |

Source: Board annual reports.

As of March 2013, there was a total of 266 active board licensees.¹⁰ An analysis of 25 initial and renewal licenses showed that licensees were approved in compliance with Alaska Statutes and regulations.

Continuing education is required and monitored by the board. DCBPL audits approximately 10 percent of renewal license applications for compliance with continuing education requirements.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

From July 2008 through January 2013, no board-related complaints were filed with the Alaska State Commission for Human Rights, the United States Equal Employment Opportunity Commission, or the Department of Administration's Division of Personnel and Labor Relations.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

The majority of licensee survey respondents believed that existing statutes and regulations met licensees' needs and protected the public's interest.

During the audit period, board operations were impeded by DCBPL's investigative case management system and inadequate administrative support to the board. (See Recommendation Nos. 1 and 2.)

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Board objectives identified in annual reports included the following.

- Review recommended changes and modify current statutes and regulations as needed and encourage implementation.
- Seek comments and input from other organizations involved in using appraisal services in Alaska.
- Continue listing approved, denied, and expired initial certification and continuing education courses and seminars available to certified individuals.
- Explore the setup and notice-giving possibilities for disseminating Appraiser Standards Board activities through an email database of licensed appraisers'

¹⁰These include: 111 general real estate appraisers, 127 residential real estate appraisers, 17 trainee appraisers, and 11 courtesy licenses.

addresses.

- At the time of initial certification, review an appraiser's application and one appraisal report completed by the applicant in accordance with 12 AAC 70.110(e).
- Meet face-to-face at least twice per year.
- Encourage and develop dialog promotional education in the State of Alaska for state certified appraisers.
- Work with the legislature and DCCED to restructure the funding and budget process.

Interviews with board members and an examination of meeting minutes and annual reports indicated the board actively worked towards meeting its operational objectives.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Although the federal Appraisal Subcommittee is charged with reviewing the State's licensing function and maintaining a database of certified real estate appraisers, the subcommittee's duties do not duplicate BCREA activities. Furthermore, licensees are not required to maintain membership in any organization. No organization's activities represent a duplication of efforts.

Appendi**X**

As a part of this audit, a survey was provided to the 260 real estate appraiser licensees with United States addresses as of January 23, 2013. Of those surveyed, 69 (26 percent) responded. The survey results are summarized in Appendix A.

(Intentionally left blank)

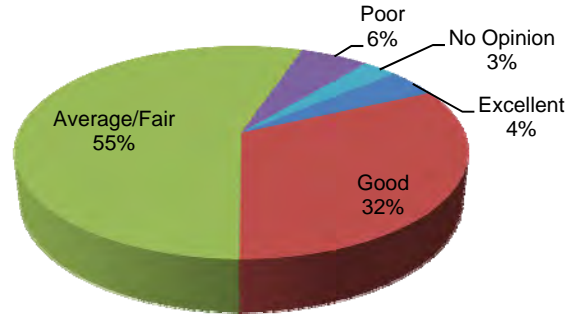
Appendix A

Board of Certified Real Estate Appraisers Survey Results

1. How would you rate the overall effectiveness of the board?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Excellent | 3 | 4% |
| Good | 22 | 32% |
| Average/Fair | 38 | 55% |
| Poor | 4 | 6% |
| No Opinion | 2 | 3% |
| Total Respondents | 69 | 100% |

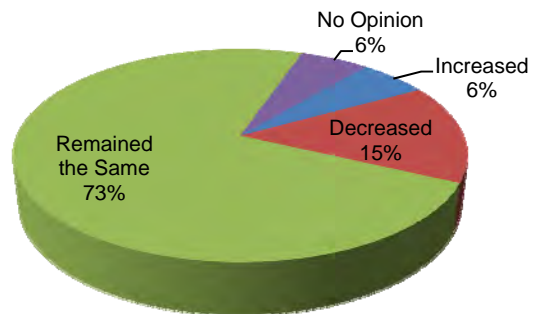
Overall Board Effectiveness



2. In your opinion, has the effectiveness of the board increased, decreased, or remained the same over the last four years?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Increased | 4 | 6% |
| Decreased | 10 | 15% |
| Remained the Same | 51 | 73% |
| No Opinion | 4 | 6% |
| Total Respondents | 69 | 100% |

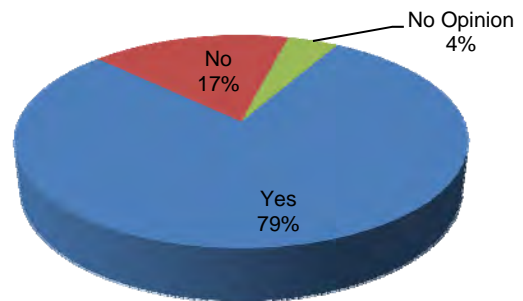
Board Effectiveness



3. Do you believe existing statutes meet the needs of regulated individuals and/or entities and protect the public's interests?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Yes | 54 | 79% |
| No | 12 | 17% |
| No Opinion | 3 | 4% |
| Total Respondents | 69 | 100% |

Effectiveness of Existing Statutes



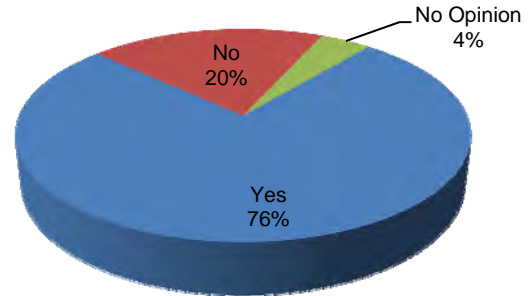
Appendix A
(Continued)

**Board of Certified Real Estate Appraisers
Survey Results**

4. Do you believe existing board regulations meet the needs of regulated individuals and/or entities and protect the public's interests?

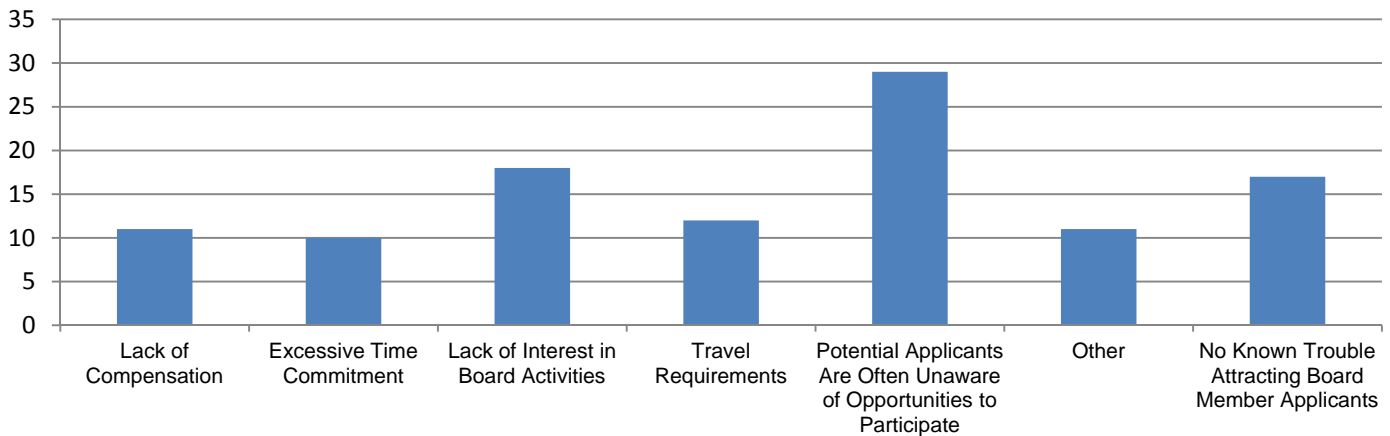
| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Yes | 52 | 76% |
| No | 14 | 20% |
| No Opinion | 3 | 4% |
| Total Respondents | 69 | 100% |

Effectiveness of Existing Regulations



5. If applicable, what are the main reason(s) the board has difficulty attracting new board member applicants?

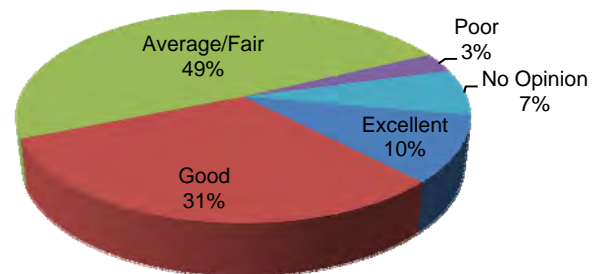
Reasons for Difficulty Attracting New Members



6. How would you rate your overall experience in applying for or maintaining professional licensure?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Excellent | 7 | 10% |
| Good | 21 | 31% |
| Average/Fair | 34 | 49% |
| Poor | 2 | 3% |
| No Opinion | 5 | 7% |
| Total Respondents | 69 | 100% |

Licensure Application Experience

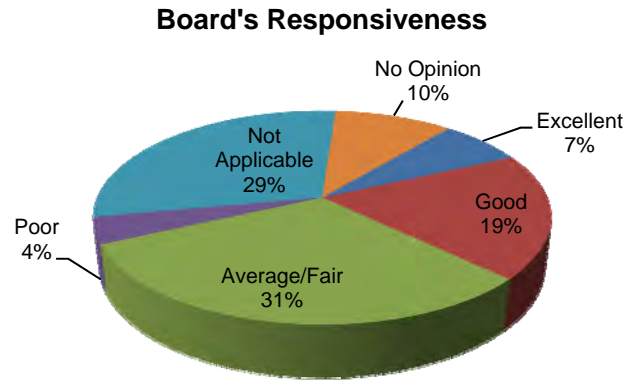


Appendix A
(Continued)

**Board of Certified Real Estate Appraisers
Survey Results**

7. How would you rate the board's responsiveness to your questions or concerns?

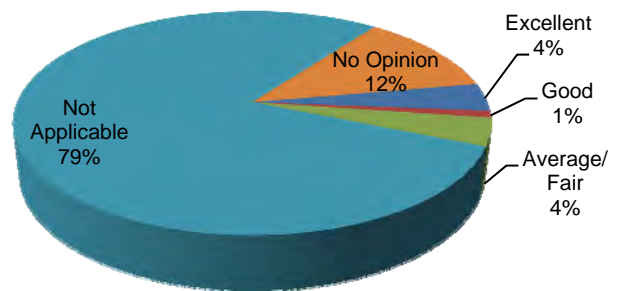
| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Excellent | 5 | 7% |
| Good | 13 | 19% |
| Average/Fair | 21 | 31% |
| Poor | 3 | 4% |
| Not Applicable | 20 | 29% |
| No Opinion | 7 | 10% |
| Total Respondents | 69 | 100% |



8. If you were required to take an examination for licensure in the last four years, how would you rate the board's administration of testing procedures?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Excellent | 3 | 4% |
| Good | 1 | 1% |
| Average/ Fair | 3 | 4% |
| Not Applicable | 54 | 79% |
| No Opinion | 8 | 12% |
| Total Respondents | 69 | 100% |

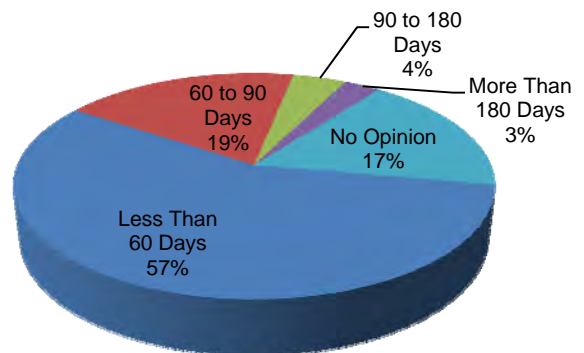
Board's Testing Administration



9. What was the approximate length of time from the submission of your application (new or renewal) to the board's ultimate decision?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Less Than 60 Days | 39 | 57% |
| 60 to 90 Days | 13 | 19% |
| 90 to 180 Days | 3 | 4% |
| More Than 180 Days | 2 | 3% |
| No Opinion | 12 | 17% |
| Total Respondents | 69 | 100% |

Timeframe for Licensure Decisions



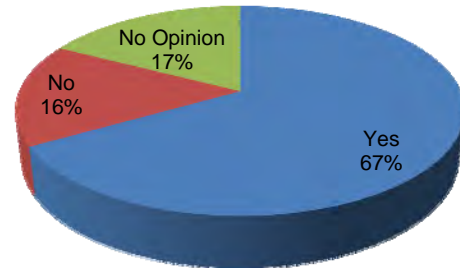
Appendix A
(Continued)

**Board of Certified Real Estate Appraisers
Survey Results**

10. Do you believe this timeframe was reasonable?

Timeframe Reasonableness

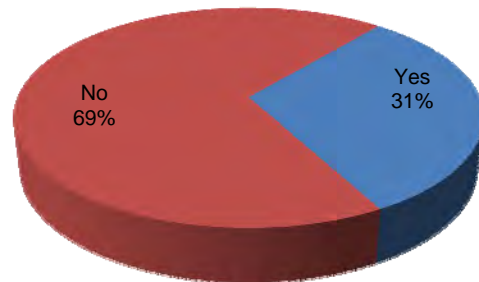
| <u>Response</u> | <u>Number of Responses</u> | <u>Percentage of Total Responses</u> |
|-------------------|----------------------------|--------------------------------------|
| Yes | 46 | 67% |
| No | 11 | 16% |
| No Opinion | 12 | 17% |
| Total Respondents | 69 | 100% |



11. Do current licensing requirements create any unnecessary barriers to entry?

Licensing Barriers to Entering Profession

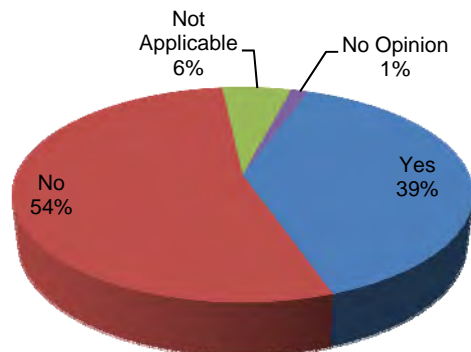
| <u>Response</u> | <u>Number of Responses</u> | <u>Percentage of Total Responses</u> |
|-------------------|----------------------------|--------------------------------------|
| Yes | 21 | 31% |
| No | 48 | 69% |
| Total Respondents | 69 | 100% |



12. Do you believe annual dues/fees are reasonable?

Dues and Fees Reasonableness

| <u>Response</u> | <u>Number of Responses</u> | <u>Percentage of Total Responses</u> |
|-------------------|----------------------------|--------------------------------------|
| Yes | 27 | 39% |
| No | 37 | 54% |
| Not Applicable | 4 | 6% |
| No Opinion | 1 | 1% |
| Total Respondents | 69 | 100% |



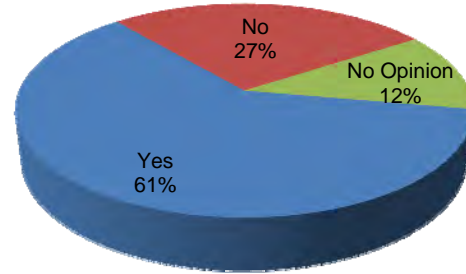
Appendix A
(Continued)

**Board of Certified Real Estate Appraisers
Survey Results**

13. Do you believe the composition of the board is a reasonable representation of your profession?

| Response | Number of Responses | Percentage of Total Responses |
|-------------------|----------------------------|--------------------------------------|
| Yes | 42 | 61% |
| No | 19 | 27% |
| No Opinion | 8 | 12% |
| Total Respondents | 69 | 100% |

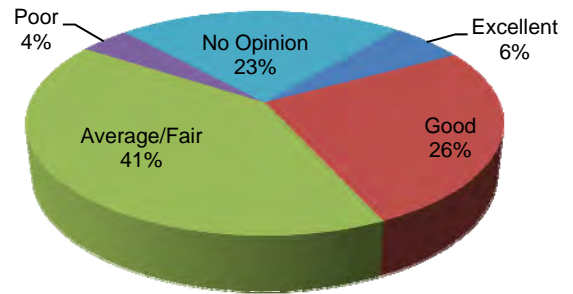
Board Representation of Appraisers



14. How would you rate board members' knowledge and understanding of the profession?

| Response | Number of Responses | Percentage of Total Responses |
|-------------------|----------------------------|--------------------------------------|
| Excellent | 4 | 6% |
| Good | 18 | 26% |
| Average/Fair | 28 | 41% |
| Poor | 3 | 4% |
| No Opinion | 16 | 23% |
| Total Respondents | 69 | 100% |

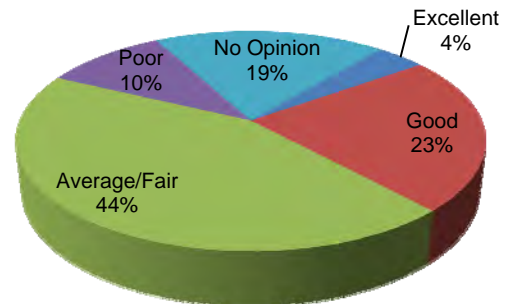
Board Members' Knowledge



15. How would you rate the board's performance in addressing important issues?

| Response | Number of Responses | Percentage of Total Responses |
|-------------------|----------------------------|--------------------------------------|
| Excellent | 3 | 4% |
| Good | 16 | 23% |
| Average/Fair | 30 | 44% |
| Poor | 7 | 10% |
| No Opinion | 13 | 19% |
| Total Respondents | 69 | 100% |

Board's Performance Addressing Issues



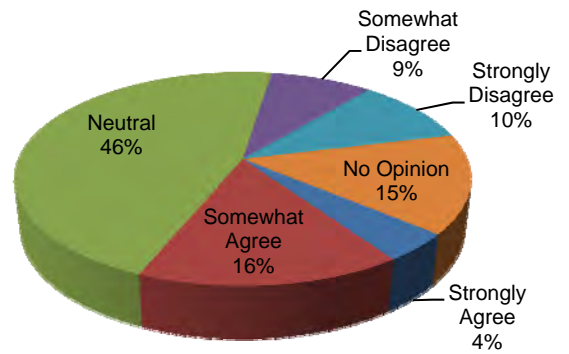
Appendix A
(Continued)

**Board of Certified Real Estate Appraisers
Survey Results**

16. Does the board maintain a good working relationship with members of the profession?

| Response | Number of Responses | Percentage of Total Responses |
|--------------------------|----------------------------|--------------------------------------|
| Strongly Agree | 3 | 4% |
| Somewhat Agree | 11 | 16% |
| Neutral | 32 | 46% |
| Somewhat Disagree | 6 | 9% |
| Strongly Disagree | 7 | 10% |
| No Opinion | 10 | 15% |
| Total Respondents | 69 | 100% |

Board's Relationship with Appraisers





THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Commerce, Community,
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
Main: 907.465.2500
Programs fax: 907.465.5442

July 16, 2013

RECEIVED

SEP 11 2013

LEGISLATIVE AUDIT

Ms. Diane Burnham, CPA
Audit Manager
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RE: Management Letter No. 1 Department of Commerce, Community, and Economic Development (DCCED), Board of Certified Real Estate Appraisers (board)

Dear Ms. Burnham:

Thank you for the opportunity to respond to the recommendations issued in the management letter regarding the Board of Real Estate Appraisers sunset audit. The department concurs with the report conclusion that the board's termination date should be extended to June 30, 2020. Our comments on the auditor's recommendations are below.

Recommendation No.1

DCBPL's director should continue efforts to improve the investigative case management system's integrity and confidentiality.

The department concurs with this recommendation. As noted in the management letter, DCBPL has taken action to address deficiencies and improve the investigative case management system's efficiency and reliability in several areas. The division will continue these efforts into FY14.

Recommendation No.2

DCBPL's director should take steps to improve administrative support to BCREA.

DCBPL does not fully concur with the presentation of issues within this recommendation. During the prior three years, significant steps were taken to improve administrative support to boards. Of these, providing accurate fiscal information was a high priority. As noted in the audit, all professional boards financial activity was analyzed and restated for the prior ten year to adjust for over allocation and reconcile to the Alaska State Accounting System.

Diane Burnham, CPA

July 16, 2013

Page 2

During this extensive FY12 effort, DCBPL curtailed board fiscal reporting until data was fully reconciled and accurate. The meeting minutes verify that the division director reported this problem and updated the board at regular meetings. Further, the department established a new process to ensure properly reconciled reports are issued quarterly.

As noted in the audit report, there were extended vacancies in the licensing examiner position and the duties were assigned to other division staff. The now filled position along with a supervisory focus on customer service has improved responsiveness to the board.


The audit does not provide sufficient information to respond to the comment that "... survey respondents complained of periodic gaps in responsiveness from the division to routine inquiries." Without parameters or a common definition of responsiveness, the division is unable to address this audit comment. Depending on the issue and the customer, the concept of what is responsive may vary dramatically. In addition, distinction between anecdotal or incidental versus volume of respondent complaints is important in determining improvements needed. Last, the audit comment somewhat conflicts with survey results on board responsiveness of 58% citing average, good, or excellent and another 39% citing not applicable or no opinion; thus accounting for 86% of total survey responses. Although the survey question focused on the board, DCBPL does concur with the audit assessment that survey ratings may pertain to DCBPL as questions are generally posed to division staff rather than the board.

The department does not concur that fines were improperly recorded. Fines were recorded to an account that rolls up to account 51060 general fund program receipts. In contrast, board fee revenues roll up to account 51073 receipt supported services and these funds are designated for board use.

DCBPL does concur that there were delays in investigative cases due to large workloads that impact the division's capacity to start or complete investigations. The division does, however, maintain an expectation of timely customer service and will continue to provide staff with the training and tools to meet that goal.

Again, thank you for the opportunity to respond to the management letter conclusion and recommendations. If you have any additional questions, please contact me at 907-465-2500.

Regards,



Susan K. Bell
Commissioner

Cc: Don Habeger, Director CBPL
Jo Ellen Hanrahan, Director ASD

Diane Burnham, CPA
Audit Manager

September 4, 2013

Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED

SEP 04 2013

LEGISLATIVE AUDIT

Dear Ms. Burnham:

Thank you for the opportunity to go over the audit report findings and be given a chance to respond to the Management Letter No. 1, Department of Commerce, Community, and Economic Development (DCCED), Board of Certified Real Estate Appraisers (board). First and foremost, we would like to thank you and your audit team for recommending that the board's termination date be extended for four years, from June 30, 2014 to June 30, 2018. We understand that the reduced extension from six to four years is in recognition of the additional responsibilities that the board will be taking on due to all of the federal mandates required in the Dodd Frank Act. With the expansion of our duties to now include overseeing Appraisal Management Companies, it is understandable that the Division of Legislative Audit would want to check in on our progress sooner rather than later.

When it comes to Recommendation No. 1, the board is a bit "in the dark about" the information that you have brought forward. The Board is never presented with information regarding the investigative case management system other than the report you may have seen given to us in our board packets at each board meeting – which basically tells us how many investigations have been opened, closed, etc. – It's all very confidential with little to no information coming our way. If there have been some deficiencies in that area, we do not know about them.

With regards to the investigative team, we have had a changeover of personnel in the past year, with Jennifer Wirawan assigned to be our new investigator. I do know that Jennifer has taken it upon herself to become more educated regarding appraisals and how they are developed, with the hopes that that would help her to be a better informed investigator – something that the board applauds and supports. She has already taken two classes recommended, and paid for by, the Appraisal Subcommittee. She has also accompanied me on an appraisal inspection and office visit to learn how an appraisal is developed.

We are in complete agreement with Recommendation No. 2, as the lack of consistent and efficient administrative support has been extremely frustrating. With all of the upcoming changes in the Regulations and Statutes that are necessary to stay in compliance with federal law; having a knowledgeable, organized and capable staff person is not just desirable, it is a necessity!

In response to the survey taken amongst our peers, the results are not shocking. Everyone is frustrated with the increase in costs associated with investigations and legal expenses – including us board members. A large amount of the current costs are associated with a specific case that went all the way to the Alaska Supreme Court, as a previous board did not think the two Consent Agreements offered by the state were stringent enough. While we would all love to keep our costs lower, we do not want to squelch the ability for an appraiser to report unethical or illegal behavior if it is suspected. If we "keep mum" simply to keep our costs low, we wouldn't be upholding our duty to protect the public's best interest. Hopefully, the board, staff and investigative team will be able to work together more cohesively in the future to prevent a case from going into the court system.

We, the board, concur with the recommendations set forth and believe that the most effective way of implementing the recommendations would be to hire a competent staff person(s) for the position(s), allow them to receive adequate training and then keep our fingers crossed that they stay!

And in conclusion, I have a couple of house cleaning comments. As noted on page 5, "Organization and Function", Exhibit 1 indicates that I, Donna Rulien, am a Licensed General Real Estate Appraiser, when in fact I am a Licensed Residential Real Estate Appraiser. Additionally, the boards current Public Member is Sarah Heath as April Moore resigned from the board in January of 2013

Sincerely,

A handwritten signature in black ink that reads "Donna Rulien". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Donna Rulien, Chair
Alaska State Appraisal Board

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@akleg.gov

September 27, 2013

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Commerce and Community Development's (DCCED) response to this audit. Except for DCCED's comments regarding Recommendation No. 2, nothing contained in the response causes us to revise or reconsider the report's conclusions and recommendations. Regarding Recommendation No. 2, DCCED does not agree with the sentence that states, "*As a result, there is little or no coverage during licensing examiner absences.*"

We agree with DCCED's comment that a licensing supervisor overseeing 22 different licensing programs is not necessarily indicative of needed improvements to administrative support. The sentence should have been written as follows. "*During the audit period, there was insufficient support during licensing examiner absences.*"

Sincerely,

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

(Intentionally left blank)