

ND Real Estate Appraiser Board Current Investigative Process

General Information:

The ND Appraiser Board is given authority by NDCC Chapter 43-23 and the ND Appraiser Rules and Regulations (Title 101) to comply with the mission of appraiser regulation. In addition to issuing licensure and certification, the Board is also responsible for disciplining appraisers.

Title XI of FIRREA requires the Appraiser Board laws and regulations to comply with the minimum criteria of the Appraiser Qualifications Board of the Appraisal Foundation and the minimum appraisal Standards promulgated in the *Uniform Standards of Professional Appraisal Practice* (USPAP).

The ND Appraiser Board regulates state apprentice, licensed and certified appraiser permittees. If a permittee is found by the Board to have violated the *Uniform Standards of Professional Appraisal Practice* established by the Appraisal Standards Board of the Appraisal Foundation for real estate appraisers, the Board has the authority to take disciplinary action against the offending permittee(s).

NDCC Chapter 43-23.3-22 authorizes the Board to suspend, revoke, impose a monetary fine, or issue a letter of reprimand when a permit holder has violated the *Uniform Standards of Professional Appraisal Practice*.

ND Appraiser Rules and Regulations Chapter 101-03.1-01-01 state:

“Any of the following acts and omissions constitute a violation of the standards of professional appraisal practice and are grounds for disciplinary action:

1. *Violation or attempted violation of North Dakota Century Code chapter 43.23.3 or the rules adopted by the board.*
2. *Failure to comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation.*
3. *Engaging in the business of real estate appraising under an assumed or fictitious name.*
4. *Paying a finder’s fee or referral fee to any person in connection with the appraisal of real estate, but an intracompany payment for business development is not unethical.*
5. *Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualification.*
6. *Violation of the confidential nature of individual, business, or governmental records to which a permittee gained accesses through employment or engagement as an appraiser.*
7. *Performance of appraisal services beyond the permittee’s level of competence.*
8. *Having been disciplined in another state, territory, or country relating to a permit or the authorization to practice as an appraiser.*
9. *Negligence, refusal, or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.*
10. *Failing as a licensed or certified appraiser to actively and personally supervise any person not licensed or certified under the provisions of North Dakota Century Code chapter 43-23.3 who assists the licensed or certified appraiser in performing real estate appraisals.*
11. *Having become permanently or temporarily unfit to engage in appraisal activity because of physical, mental, emotional, or other causes. Suspension of a permit in cases where the permittee is temporarily unfit to conduct appraisal activity shall only be for the period of unfitness.*
12. *Commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual’s activities as an appraiser or otherwise.*
13. *Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.*
14. *Filing a frivolous complaint against a permitted appraiser.”*

A Brief Overview the theNorth Dakota Real Estate Appraiser Board Investigative Process:

- ✓ An allegation(s) is (are) filed with the Board office and Staff assigns it a case number.
- ✓ A copy of the allegation(s) is (are) forwarded directly to the appraiser in question for his/her response to the allegation(s). The appraiser in question is given 20 days in which to provide a written response. Included as part of the response, the Board requests a copy of the appraisal in question, as well as all supporting documentation (work file).
- ✓ The appraiser's response is received in the Board office.
- ✓ The allegations and appraiser's response are forwarded to the Board Investigative Reviewer. The Investigative Reviewer reviews the allegations and response to the allegations, and submits an Investigative review Report to the Board Office. The Investigative Review Report includes a summary of the allegations/response, strength and weaknesses of the appraisal report in question, and a recommended course of action.
- ✓ A copy of the allegation(s), response to the allegations and Investigative Review Report are provided to the Board members and legal counsel. (The appraiser is also provided a copy of the Investigative Review Reports for comment).
- ✓ The Case is placed on the agenda for consideration at a following meeting.
- ✓ The Board meets, and after review and discussion of all the information provided, makes a determination:
 - There appear to be no violations of USPAP, NDCC 43-23.3 or ND Appraiser Rules and Regulations, therefore the allegations are dismissed.
 - The Board may decide that further information is required prior to making a determination. "Further information" may include a request for:
 - 1) additional information pertaining to the allegation(s) and/or the investigation,
 - 2) review of additional work product completed by the appraiser be submitted to determine if there is pattern of noncompliance, or
 - 3) request an independent review (which could include a field review) be completed.
 - The Board may determine there is sufficient evidence to support the allegation(s) and /or there is a reasonable basis to believe that various provisions of USPAP, NDCC and/or ND Appraiser Rules have been violated and move to initiate a formal complaint. *However, the Board typically seeks to try to informally resolve the matter.*
 - The Board may determine there are issues, but the issues do not rise to the level of a complaint. The Appraiser may be offered a conditional dismissal. Once the appraiser signs an offer of conditional dismissal and meets the requirements of that offer, the allegations are dismissed. *The goal of a settlement agreement is to educate and move the appraiser's quality of work to USPAP compliance.*
 - The Board could move to offer a Settlement Agreement. Again, *The goal of a settlement agreement is to educate and move the appraiser's quality of work to USPAP compliance.*
 - As part of a proposed settlement agreement, the Board has many options to consider. Following is a listing of *some* of the conditions the Board (through a settlement agreement) may require of the appraiser. Please note: The offer may include one or more of the following conditions and/or requirements, depending on the violation(s) that has (have) occurred:
 - 1) Appraiser's permit be placed on probation or suspension,
 - 2) Appraiser is issued a letter of reprimand,
 - 3) Appraiser is required to pay a fine,
 - 4) Appraiser is required to complete corrective of remedial education,

- 5) Appraiser is required to work under the supervision of a supervisor or have appraisals reviewed prior to being sent to the client
 - 6) Appraiser is required to submit additional reports for Investigator review or Board review,
 - 7) Appraiser may be required to retake the national exam,
 - 8) Appraiser may agree to surrender of his/her permit, or
 - 9) Revocation of permit.
- At any time throughout the process and certainly when the proposed offer of settlement or any determination has made by the Board against the appraiser's permit, the appraiser(s) has (have) the right to obtain legal counsel to assist in the matter. Furthermore, the appraiser is advised that he/she is entitled to a hearing pursuant to NDCC ch 28-32.
 - If the appraiser does not accept the offer of settlement, the Case typically goes to an Administrative Hearing.
- ✓ The party filing the allegations is informed of the Board's decision once:
- the Board has made the determination that the Case be dismissed.
 - an offer of conditional dismissal has been made and both the appraiser and the Board have accepted the terms of the conditional dismissal.
 - an offer of settlement has been made and both the appraiser and the Board have accepted the terms of the Settlement Agreement.