

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

MINUTES

Board Meeting -June 27, 2013

Hilton Garden Inn, 4351 17th Ave S, Fargo ND 58104

Chairperson Ibach called the meeting to order. Roll call was taken.

Board Members present:	Chairperson Joseph Ibach	Tim Timian
	Carolyn Corwin	Harvey Huber
	David Lanpher	
Others Present:	Edward Erickson, Legal Counsel	Eric Oberg
	Jodie Campbell, Staff	Levi Andrist
	David Campbell, Staff	David Ruth, online
	Ben Hushka	Angela Kluck, online
	Robert Harshberger	Jason Hanson, online
	Frank Klein	Dale Weston
	Vince Salzer	Bruce Reinarts

Minutes: Board members were provided and reviewed the minutes of April 11 and May 13, 2013. Two corrections were noted in the April 11th minutes: 1) page1, line 2, insert "of"; 2) page "two" Inv 213-121 should read Inv 212-121. Dave Lanpher moved to approve the minutes as amended. Carolyn Corwin seconded the motion. Tim Timian, Carolyn Corwin, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion. Motion carried.

Approval of Applicants:

John Whartnaby is making application for the certified general level. Review of Mr. Whartnaby's application indicates he meets the education, experience hours and examination requirements for certified general. Review of Mr. Whartnaby's work product indicates various concerns. Board members discussed the concerns detailed in the reviews, as well as additional issues of concern found by Board members. Some of the concerns discussed included 1) noncompliance with the 3-year property history requirement, 2) no local cost information provided to support the replacement cost new, 3) better support for depreciation estimate, 4) lack of support for land value and 5) proper sales were not reported. Board members cautioned Mr. Whartnaby to look to the market not just the math; an appraiser should interpret the market. Based on the reports not meeting minimum standards, Carolyn Corwin moved to table Mr. Whartnaby's application for certified general and request he provide a log from the date of this meeting forward. One additional report will be selected for formal review. Harvey Huber seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Jason Hanson is making application for certified residential and was present online for discussion. Review of Mr. Hanson's application indicates he meets the education, experience hours and examination requirements for certification. Based on review of work product and discussion with Mr. Hanson, the Board determined that Mr. Hanson has demonstrated a working knowledge for the certified residential level. Carolyn Corwin moved to approve Jason Hanson for certified residential. Tim Timian seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Dale Weston submitted two reports for educational review. Board members reviewed and discussed the reviews. Mr. Weston was present for discussion. The Board encouraged Mr. Weston to use the reviews and Board comments to assist in future reports.

Joshua Clason is making application for certified general via reciprocity with WY. Board members reviewed Mr. Clason's application and concurred that he meets the requirements for certified general. Harvey Huber moved to approve Joshua Clason for certified general. Carolyn Corwin seconded the motion. Tim Timian, Carolyn Corwin, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Investigations:

Inv 212-114 & Inv 212-115:

At the meeting of May 13, 2013, David Ruth requested the Board reconsider/void a Settlement Agreement he signed with the Board, effective January 4, 2013. As part of the January 4, 2013 Agreement, Mr. Ruth agreed to surrender his certified residential permit effective the date of execution of the Agreement. Since signing the Agreement Mr. Ruth has found unintended consequences have negatively impacted his livelihood significantly as an appraiser, as a result of surrendering his certification. Therefore, Mr. Ruth is requesting the Board reconsider substitute alternative disciplinary terms that would allow him to continue appraising, in lieu of surrendering his permit.

David Ruth and his attorney, Mr. Levi Andris, were in attendance for discussion. Discussion took place. Board members were in agreement that the intentions of the Board were not to keep Mr. Ruth from appraising, but to educate him to become a more competent appraiser. Board members discussed the alternative disciplinary terms offered by Mr. Ruth: 1) change his status to inactive, 2) 21 additional hours of continuing education, 3) an additional \$3000 fine and/or 4) should he ever consider pursuing active status in ND the original settlements terms would apply (one-year probation and review of work product).

Taking into consideration the original Agreement offered by the Board, as well as the Board's intentions, Dave Lanpher moved to give Legal Counsel and Board Chair the authority to negotiate a new Agreement with Mr. Ruth. Carolyn Corwin seconded the motion. Dave Lanpher, Carolyn Corwin, Harvey Huber and Joe Ibach voted yes to the motion. Tim Timian voted no. Motion carried.

Inv 212-116:

A signed Settlement Agreement between the Board and Mr. Marty Knudson requires Mr. Knudson submit an experience log in the first six months of probation. The Agreement further authorizes the Board to make a selection from the log for review for compliance with USPAP. Board members selected two appraisals for review. Staff was directed to forward the appraisals to a Board approved Reviewer for an independent review.

Inv 212-121: Mr. Vince Salzer, the appraiser involved in the complaint was present for discussion. At the meeting of April 11, 2013, Board members addressed the complaint and determined further investigation was warranted. Staff was directed to question the homeowner, appraiser and his associates on the matters of 1) who inspected the property and 2) who completed the two appraisals.

Discussion took place. Board Staff questioned the homeowner who verified that a younger gentleman inspected the property. This gentleman did not fit the description of either of the appraisers (Mr. Salzer or Mr. Jack Lindsay) who each signed one of the reports and indicated in the reports they had inspected the property. The homeowner could not verify that either Mr. Lindsay or Mr. Salzer had completed an inspection.

Board Staff then questioned Mr. Salzer and one of his associates, Mr. Chase Dockter. Mr. Dockter could not recall whether he completed an inspection on the property. Mr. Salzer indicated that he referenced in the report that he inspected the property; therefore he must have made the inspection.

Discussion moved to the matter of Mr. Salzer's demonstration report. Specifically, Mr. Salzer submitted a demonstration report to the lender versus providing actual work product. The report submitted did not contain any statement referencing that it was a demonstration report, leading the lender to believe it was an appraisal assignment completed by Mr. Salzer. Furthermore, this report was one of two reports submitted to the lender on the same property, from the same firm, but signed by two different appraisers (Mr. Salzer and Mr. Lindsay). The lender indicated the reports were extremely similar, with the same effective date.

Mr. Salzer defended his actions: 1) the two reports were submitted to the lender for two entirely different purposes. The report he signed was submitted as a sample report whereas the report signed by Mr. Lindsay was for mortgage purposes. 2) As noted in the first appraisal, he provided significant assistance in the development of the appraisal. Therefore, it could be considered his work product. 3) The lender did not specify that a sample report had to be an actual appraisal. 4) The report he submitted is a sample of the work that he would be completing if he was approved to the lender's appraiser panel. Discussion concluded.

Based on the information received and reviewed, the Board believes grounds exist to support the complaint. Harvey Huber moved to initiate disciplinary action against the appraiser. Carolyn Corwin seconded the motion. Tim Timian, Carolyn Corwin, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion, the vote was unanimous. Motion carried.

In lieu of moving forward with disciplinary action, Harvey Huber moved to resolve the matter by offering the appraiser a settlement agreement. The provisions of the agreement include: 1) a \$500 fine to be paid within 30 days of the effective date of the agreement and 2) completion of two Board approved ethics courses within 6 months of the effective date of the agreement. The courses must include a 15-hour USPAP course and a 15-hour course or multiple courses totaling 15 hours related to business practices and ethics. Dave Lanpher seconded the motion. Tim Timian, Carolyn Corwin, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion, the vote was unanimous. Motion carried.

Inv 213-123: Board members reviewed the complaint and response to the complaint. The complaint, filed by a homeowner, alleges that the appraiser acted unprofessional when he 1) did not show up for a follow-up inspection and 2) discussed value with the buyer's lender.

The appraiser's response indicated he made the initial inspection, discovered he had a conflict of interest and informed the AMC he had to recuse himself. The homeowner and realtor were not informed of the situation. The AMC was in the process of assigning the appraisal to another appraiser when the realtor contacted the appraiser to re-schedule the follow-up inspection. The appraiser informed the realtor that he had to recuse himself. Included in the appraiser's response was verification through letters from the AMC and the lender that no discussion of value took place with any parties.

Based on review of the information presented, there appeared to be a miscommunication amongst the parties involved. Furthermore, the appraiser appeared to act in a professional manner when recusing himself due to a conflict of interest. Carolyn Corwin moved to dismiss the complaint. David Lanpher seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Inv 213-125: Board members reviewed the complaint and response to the complaint. The complaint involves two appraisals completed on the same property, by the same appraiser, within a 4-month timeframe. The basis of the complaint appears to be the wide range in value between the two appraisals within such a short timeframe.

Discussion took place. Based on the information provided, the Board determined there was a reasonable basis to believe a violation has occurred. Tim Timian made a motion to move forward with the complaint process. Carolyn Corwin seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Tim Timian made a motion to move forward with a field review. Dave Lanpher seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Inv 213-126: Board members reviewed the complaint. The complaint concerns an appraisal valued at \$0. Discussion took place. Based upon the information provided, the Board determined there was a reasonable basis to believe a violation has occurred. Dave Lanpher made a motion to move forward with the complaint process. Harvey Huber seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Harvey Huber made a motion to move forward with a field review. Dave Lanpher seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Carolyn Corwin and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Permits Issued/Require Board approval: Staff reviewed, approved and issued permits to the following applicants:

Certified General:

Christopher M. Fudacz (via reciprocity with IL)

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Certified General (continued):

Kara A. Olson (via reciprocity with MN)
Kurt M. Ophus (via reciprocity with MN)
Timothy L. Vergin (via reciprocity with MN)
Robert Woods (via reciprocity with NJ)

Certified Residential:

David W. Kahlig (via reciprocity with TX)
Jeff D. Lee (via reciprocity with MN)
Michel J. Richards (via reciprocity with CA)

Apprentice:

Tara L. Cuypers - Marit M. Eriksmoen - Brent A. Thielges

Carolyn Corwin moved to affirm all applicants for their respective levels. Harvey Huber seconded the motion. Tim Timian, Carolyn Corwin, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Finances: Board members were provided current income and expense information. Discussion took place. Harvey Huber moved to approve finances as submitted. Dave Lanpher seconded the motion. Dave Lanpher, Carolyn Corwin, Harvey Huber, Tim Timian and Joe Ibach all voted yes to the motion, the vote was unanimous. Motion carried.

Education: Staff submitted an outline of a new course developed by Craig Steinley, requesting the Board consider sponsoring another 7-hour education caravan throughout the State, as was presented by Mr. Steinley in December of 2012. The morning session would be a 4-hour seminar on "UTAM: Selecting Comps and Making Adjustments" and the afternoon would be "Most Common USPAP Violations". The caravan would include Minot, Bismarck and Fargo locations. The class was well received by numerous realtors last year. Therefore, Staff will contact the ND Realtors Association to see if there would be interest in co-sponsoring the morning session. Board members were in agreement to move forward with the educational offerings.

The following education has been submitted for approval for **continuing education**:

Northern Michigan University:

-Residential Design Module I: *What Makes a Good House Good* (2 hrs CE)
-Residential Design Module II: *Structure and Style* (2 hrs CE)
-Residential Design Module III: *Floor Plan Analysis* (3 hrs CE)

Harvey Huber moved to approve the above listed education for their respective hours, as appraisal related. Carolyn Corwin seconded the motion. Harvey Huber, Tim Timian, Carolyn Corwin, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried

The ASFMRA is questioning whether ND will allow proctored electronic exams. Board members were in agreement to allow proctored electronic exams.

Other Business:

Eric Deutsch with Franzen and Salzano, PC of Norcross, GA forwarded a question regarding, whether an AMC that is a wholly-owned subsidiary of an out-of-state state-chartered financial institution subject to regulation by the FDIC be exempt from the AMC registration requirements, once the requirements are in place?

The Board directed Legal Counsel to research and formalize an appropriate response to Mr. Deutsch.

Chairperson Ibach called for adjournment.

Respectfully submitted,

Jodie R. Campbell, Executive Secretary