

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes – October 12, 2021 – 9:00AM CT
Board Meeting

Chairperson Timian called the meeting to order at 9:00 AM. Roll call was taken.

Board Members present online: Chairperson Tim Timian, Corey Kost, Matt Schlenvogt, Brock DesLauriers and Joe Sheehan

Staff Present: Jodie Campbell and David Campbell

Investigative Reviewer: Joe Ibach

Legal Counsel: Allyson Hicks, Carl Karpinski

Educational Review: Karissa Grube submitted a report for review as part of the Board's educational review process. An independent review was completed. Discussion took place. Ms. Grube was encouraged to utilize the review, as well as Board member and Board Reviewer comments, when completing future reports. Corey Kost moved to allow Ms. Grube's report to be used as one of three reports for future certification. Matt Schlenvogt seconded the motion. Discussion took place. Chairman Timian called for the vote. Matt Schlenvogt, Brock DesLauriers, Joe Sheehan, Corey Kost and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Summer Steinmetz submitted a report for review as part of the Board's educational review process. An independent review was completed. Discussion took place. Ms. Steinmetz was encouraged to utilize the review, as well as Board member and Board Reviewer comments, when completing future reports. Corey Kost moved to allow Ms. Steinmetz's report to be used as one of three reports for future certification. Matt Schlenvogt seconded the motion. Discussion took place. Chairman Timian called for the vote. Matt Schlenvogt, Brock DesLauriers, Joe Sheehan, Corey Kost and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Applicants for Approval:

Briana Scheid is making application for certified general and was present for discussion. Review of Ms. Scheid's application indicates Ms. Scheid has met the education and experience hours for certified general.

Ms. Scheid previously submitted a report for educational review. The report was approved for upgrade. Two additional reports were selected and reviewed by Board Reviewer. Discussion took place. Review of the reports indicates compliance with the minimum standards set forth in USPAP for certified general. Corey Kost moved to approve Briana Scheid for certified general upon passage of the certified general exam. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Brock DesLauriers, Joe Sheehan, Matt Schlenvogt, Corey Kost and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Emily Hoffman is making application for certified residential and was present for discussion. Review of Ms. Hoffman's application indicates Ms. Hoffman has met the education, examination and experience hour requirements for certified residential. Three reports were selected and submitted for review by Board Reviewer. The reviews indicated all three reports were found to be noncompliant with USPAP. A detailed discussion of the areas of noncompliance are noted in the reviews. Some of the issues discussed with the Board included: 1) reports lacked market support for the adjustments, 2) highest and best use was noncompliant, 3) there appears to be a lack of understanding of depreciation and 4) in general, all three approaches do not meet USPAP minimum standards.

Ms. Hoffman addressed a letter to the Board addressing the issues noted in the reviews and detailed her situation. Ms. Hoffman's supervisor has retired. Prior to her supervisor retiring, Ms. Hoffman submitted work product for educational review. Due to Board Reviewer workload, etc. it appeared the educational review was not going to be completed prior to his retirement, so Ms. Hoffman submitted her application for certified residential. Based on the events that occurred, the Board members were in agreement the current reviews would be considered educational.

Based on the issues noted in the reviews, Corey Kost moved to table Ms. Hoffman's application and request Ms. Hoffman revise the Mooreton appraisal and submit one new report for review for the licensed appraiser credential. Matt Schlenvogt seconded the motion. Discussion took place. If the Boards tables the application, the Board still has a certified residential application to consider.

Corey Kost revised his motion to table Ms. Hoffman's application for certified residential and request Ms. Hoffman revise the Mooreton appraisal and submit one original appraisal on an income producing property (2-4 unit). The reports will be forwarded to the Board Reviewer for review for compliance with USPAP. Matt Schlenvogt seconded the revised motion. Chairman Timian called for the vote. Joe Sheehan, Brock DesLauriers, Matt Schlenvogt, Corey Kost and Tim Timian all voted yes to the motion. The motion was unanimous. Motion carried.

10-Minute Break

Investigations:

Case 220-109A: Joe Ibach, Board Investigative Reviewer provided an overview of the Case. An anonymous allegation was received in the Board office in September 2020. The allegation implied a possible personal conflict of interest between Mr. Dennis Huber, principal of the Appraisal Office and his Apprentice Appraiser, Mr. Dennis Danzl. Mr. Huber is the appraiser on at least six appraisals where Mr. Danzl, his apprentice appraiser, was found to be the listing or selling agent

Mr. Ibach requested six appraisals completed as part of the review process. The Reviewer must not only look at the allegations but appraisal(s) in question to determine if they meet the minimum standards. Mr. Ibach looked at all six appraisals but reviewed one of the six. Following is a brief overview of his findings of noncompliance:

Extraordinary assumptions and hypothetical conditions: In his response Mr. Huber indicated he intended to check hypothetical in the report. Regardless, if its hypothetical or extraordinary, USPAP requires the appraiser clearly and conspicuously state in the report that the use might have affected the assignment results. Mr. Huber failed to make this statement.

Personal property: Mr. Huber did not analyze the effect of the contributory value of the personal property on the subject property's concluded market value.

Site value: The methodology was identified, but the appraisal lacked the market data to support the value. Without some form of direct market support the site valuation is not credible.

Comparable sales used in the appraisal: The sales appear to be good sales considering the market. However, the Reviewer questioned the verification sources used. There was no personal verification of any of the circumstances around any of the sales. The sales were listed as being verified by a city assessor and NDRIN. This verification is not acceptable relative to the standards required.

Sales comparison approach: The adjustments lacked consistency and market support.

Reconciliation: The appraiser provided good rational. However, support for opinions and conclusions was not sufficiently summarized.

Ethics Rule: The possibility of personal interest or bias falls under the Ethics Rule. Mr. Huber, the principal of the Appraisal Office has completed appraisals on properties where his apprentice, Mr. Dennis Danzl, was the listing or selling agent. Based on review of the comparable sales, the analysis and the concluded value, the Reviewer indicated he could not find anything to conclude that the relationship influenced the value. Therefore, it does not appear that Mr. Huber is biased relative to the value. However, in signing the certification, Mr. Huber did not

disclose that he had a personal interest with one of the parties involved in the transaction. This creates a perception of bias.

Discussion took place. Appraisals were completed where it appears Mr. Huber had a personal interest with a party to the transaction and did not disclose it in signing the certification. When an appraisal is completed on a 1004 form for the secondary market the appraiser has no option to disclose personal interest. This is a preprinted form, where no modifications are allowed. It appears that Mr. Huber went through a number of steps and felt he could do the appraisal without bias. Even if that is the case, he completed an appraisal on a 1004 form (where modifications are not allowed) and signed the certification (the certification says that you have no personal interest in the parties to the transaction). Therein, lies the issue.

Dennis Huber provided comment. It is important to understand that I do not agree with everything, but I do believe I made a mistake. He further commented, one of the reasons he took Mr. Danzl on as apprentice was to cover rural market areas. He clarified that if he believe there is bias, he would walk away from an assignment. Mr. Huber explained his greatest motivation to not have bias is that the appraisers he has trained have stayed with him out of respect for each other.

Board member discussion continued. Completing appraisals on properties where the apprentice appraiser is the selling or listing agent is concerning. Of the six reports noted in the review, three were completed after the allegation was filed. In addition, a number of other areas of noncompliance were outlined in the review.

Based on the issues noted in the review and Board discussion, Corey Kost moved to offer Dennis Huber a conditional dismissal in lieu of disciplinary action. The conditional dismissal will include the following terms. Within six months of signing this agreement Mr. Huber must: 1) complete a 4-hour corrective course developed by the Appraisal Foundation, titled "What am I Signing and Why? (Or a similar course approved by the Board), 2) complete a 4- hour course titled "Thinking Outside the Form" (or a similar course approved by the Board) and 3) reimburse investigative costs up to \$1,000. Upon successful completion of the above terms, the complaint will be dismissed. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Matt Schlenvogt, Brock DesLauriers, Joe Sheehan and Tim Timian voted yes to the motion. The motion was unanimous. Motion carried.

Discussion moved to Case 220-109B: Chairman Timian provided a brief overview. In the Investigative Report completed by Board Reviewer, Joe Ibach, Mr. Ibach discussed the process relative to the selection of an appraiser for an appraisal assignment. In Mr. Ibach's research into the selection process he found that the financial entity has complete control over the selection of an appraiser for an assignment. The listing or selling agent has no control nor any input in this selection. Therefore, Mr. Danzl, as listing or selling agent, would have had no involvement involved in the selection of the appraiser.

In a discussion with the Board Reviewer, Dennis Danzl verified that he had no personal involvement in the selection of Dennis Huber for any of the appraisal reports in question, nor did he complete any of these reports. Mr. Ibach's review of the reports also found that Mr. Danzl was not noted in the reports as providing significant appraisal assistance. Mr. Ibach then concluded that there was insufficient evidence to find that Mr. Danzl had any personal involvement in the selection of the appraiser or assisted in completing the appraisal reports in question.

Based on these findings, Corey Kost made a motion to dismiss the allegations against filed Dennis Danzl. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Brock DesLauriers, Joe Sheehan, Matt Schlenvogt, Corey Kost and Tim Timian all voted yes to the motion. The motion was unanimous. Motion carried.

Board Chair Timian introduced Carl Karpinski and welcomed him as new Legal Counsel to the Board.

Chairman Timian granted Mr. Danzl's request to address the Board. Mr. Danzl discussed how much trouble (what he termed as) this frivolous allegation has caused him, Dennis Huber and the Appraisal Office. He discussed his frustration with the Board's lack of timeliness in handling this allegation, as the initial review recommendation in April of 2021 was for dismissal. He noted that filing a frivolous complaint against a permitted appraiser is a violation.

Mr. Danzl went on to discuss the continued issues he is experiencing with the appraiser who he feels filed the allegation.

Carl Karpinski, Board Legal Counsel, interjected and explained the Board has an investigative policy in place it must follow. Sometimes it may be a timely process and frustrating, but a complete investigation of the entire allegation is required. Relative to Mr. Danzl's discussion on the individual he believes filed the allegation, Mr. Karpinski recommended Mr. Danzl go through the proper procedures in filing an allegation. Bringing the issues before the Board through a Board meeting is not appropriate.

Mr. Danzl stated that everything he has discussed is factual. He then questioned how he could file an allegation against the anonymous individual who the allegations against him.

Mr. Karpinski and Chairman Timian confirmed the Board received the allegations anonymously. The Board has no knowledge of who filed the allegation. Again, should Mr. Danzl want to file an allegation against the individual he feels filed the allegation he and Mr. Huber, he must go through the Board's investigative process.

Case 219-194: Daniel Boris signed a settlement agreement with the Board. The terms of the agreement included a 24-month probationary period in ND, payment of a fine, permit is restricted from appraising agricultural property in ND, payment of restitution to the client, completion of education and submittal of an experience log. Mr. Boris has not completed any of the conditions of the agreement. Based on a miscommunication by Staff, Mr. Boris concluded the settlement agreement was null and void.

Discussion took place. The communication issue had to do with an email Mr. Boris forwarded to Staff inquiring as to the specific classes to complete. Based on a lack of response from Staff, Mr. Boris concluded the agreement was null and void. Staff received no additional follow-up emails or phone calls of inquiry from Mr. Boris.

Mr. Boris has completed none of the conditions of the settlement agreement. The Board questioned their options. Carl Karpinski, Board Legal Counsel, explained that under Clause 7 of the settlement agreement the Board has the legal authority to revoke Mr. Boris's ND permit.

Board discussion continued. If Mr. Boris had made the effort to complete other terms for the agreement, the Board could consider allowing additional time to complete the required education. However, the Board has a respondent that has not completed any of the terms of the agreement.

Based on the fact that we have an appraiser who did not comply with the provisions of a signed settlement agreement, Corey Kost moved to revoke Daniel Boris's ND certified general permit. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Joe Sheehan, Corey Kost, Brock DesLauriers, Matt Schlenvogt and Tim Timian voted yes. The vote was unanimous. Motion carried.

Case 214-145: To date, Board does not have a signed agreement with John Hraba. Board members questioned when Mr. Hraba was offered the settlement agreement? Legal counsel provided a brief summary.

In 2019, the Board provided a settlement offer to Mr. Hraba. Mr. Hraba's attorney countered with a revised agreement (redline version). Mr. Hraba had additional concerns in signing the revised agreement. He questioned the Board and Board Legal Counsel as to what the repercussions would be on his Minnesota certification should he sign the agreement. Board Legal Counsel responded to Mr. Hraba; the Board nor Board Legal Counsel were in any position to offer any advice or knowledge as to how a signed agreement would affect his Minnesota certification. Mr. Hraba did not sign the agreement. On 8/24/21 Board Legal Counsel emailed Mr. Hraba again with a request to sign the settlement agreement. To date, Mr. Hraba has not signed the agreement.

Board discussion took place. Mr. Hraba has claimed to be in compliance with part of the agreement because he has not applied for a North Dakota permit. However, Mr. Hraba has not signed an agreement. By not signing an agreement Mr. Hraba has not complied with any terms of an agreement.

The Board has an individual who received a settlement agreement and has chosen not to sign the agreement, nor to actively pursue it. Therefore, the Board needs to take action. Corey Kost moved for revocation of Mr. Hraba's certification for failure to sign a settlement agreement. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Brock DesLauriers, Matt Schlenvogt, Joe Sheehan, Corey Kost and Tim Timian all voted yes to the motion. It was a unanimous vote. Motion carried.

Other Business:

Allyson Hicks came back online, Board members thanked her for her years of providing legal assistance to the Board.

Future Board Meeting Date: 9:00 AM - November 10th- Virtual

ND Housing Finance is requesting assistance in topics for an upcoming educational forum. They are looking for topics to offer an educational forum to appraisers, lenders, and realtors. The ND appraiser associations would be better sources to assist the NDHA. Joe Ibach indicated the NDAA has discussed the request and will take it under further consideration.

Chairman Timian called for adjournment at 12:17pm.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary