

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

November 17, 2014 MINUTES
Radisson, Bismarck ND

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

Board Members present:	Chairperson Joseph Ibach	Tim Timian	
	Kathy Maier	Brock DesLauriers	
	David Lanpher		
Staff Present:	Edward Erickson, Legal Counsel	Jodie Campbell	
		David Campbell	
Others Present:	Jill Beck	Leah Reynolds	Bob Gietzen
	Chris Larson	Allen Wood	Beth Keller
	Tiffiney Dick	Gretta Pollard	Jim Weisser
	Kathy Berry, online		

Public Comment:

Minutes:

Board members reviewed the minutes of September 30, October 22 and October 29, 2014. Tim Timian moved to approve the minutes. Dave Lanpher seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Applications:

Educational Reviews: As part of the Board's educational review process, independent reviews were completed on reports submitted by Chris Larson (CG level), Tiffiney Dick (CR level) and Gretta Pollard (LA level). Board members discussed the reviews with the apprentices and their supervisors. The Board encouraged the appraisers to utilize the reviews, as well as Board member comments to assist in completing future reports.

Applicant for Certified General Requiring Board Review: Ronald K. Owens, Jr. is making application for certified general via reciprocity with Texas. Board members reviewed his application. Tim Timian moved to approve Ronald Owens for certified general. Dave Lanpher seconded the motion. Tim Timian, Kathy Maier, Harvey Huber, Dave Lanpher, Brock DesLauriers 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:

Apprentice: Taylor Siverson

Certified Residential: Christy Zingraff (via reciprocity with MN)

Certified General: Brian Richardson (via reciprocity with WI)

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

Investigations:

Inv 213-125: At the meeting of June 27, 2013, the Board moved to proceed with an investigation and ordered a field review. The field review has been completed and received. Discussion took place with the respondent, Mr. Michael Seitz, present for discussion.

The complaint involves two appraisals completed by Mr. Seitz on the same property, 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 with no changes to the home within that timeframe. The Board questioned 1) the appraiser's due diligence in completing the first appraisal and 2) buyer influence.

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. Brock

DesLauriers seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Brock DesLauriers and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Kathy Maier moved to offer a settlement agreement in the form of a conditional dismissal of the complaint. The terms of the agreement include 1) successful completion of a 15-hour USPAP within 6 months, 2) a \$1800 fine, 3) no additional valid complaints received on Mr. Seitz within 12 months from the date the agreement is executed. Upon completion of the conditions of the agreement, the Board will dismiss Inv 213-125. A conditional dismissal is not reported to the National Registry. Dave Lanpher seconded the motion. Dave Lanpher, Brock DesLauriers, Kathy Maier and Joe Ibach voted yes to the motion. Tim Timian voted no. Motion carried.

Inv 214-130 & 214-138:

At the meeting of June 25, 2014 the Board discussed and subsequently tabled Inv 214-130 based on the fact that a second complaint had been filed against this appraiser and the appraiser/respondent had not had the opportunity to review and respond. Mr. David Williamson, the respondent was present at that meeting for discussion.

Mr. Williamson could not be present for discussion at this meeting.

In review of both investigations the Board found similar issues: 1) market competency and 2) geographic competency. It is the appraiser's responsibility to research the market and analyze sales. Mr. Williamson failed to do so.

Inv 214-130: Mr. Williams used Minot/Minot area comparables on a rural property near Powers Lake, making no location adjustments.

Inv 214-138: Mr. Williams used comparables from more than 30 miles away from the subject property, when data was available within the market area. Again no location adjustments were made.

Board members determined there was sufficient evidence to move forward with the complaint process. Based on the information provided Dave Lanpher moved to file a formal complaint against David Williamson. Tim Timian seconded the motion. Dave Lanpher, Brock DesLauriers, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Tim Timian moved to offer Mr. Williamson a settlement agreement. The terms of the agreement to include: 1) successful completion of a 15-hour course on complex properties to be completed within 3 months of execution of the agreement, 2) \$2000 fine, and 3) submit a log 60 days after completion of the education, two reports will be selected for review. The selected reports must include a minimum of two approaches to value. Brock DesLauriers seconded the motion. Dave Lanpher, Brock DesLauriers, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried. Further discussion took place. Tim Timian amended his motion to reduce the fine to \$1500 fine. Dave Lanpher seconded the amendment. Dave Lanpher, Brock DesLauriers, Kathy Maier, Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Inv 214-139: Board members reviewed the complaint and response to the complaint. The issues appear to involve timeliness and lack of communication. Staff received correspondence from the complainant indicating the appraisal had been received and issues resolved. However, this is an issue relating to unprofessional conduct. Tim Timian moved to offer a settlement agreement in the form of a conditional dismissal of the complaint. If the Board does not receive any valid complaints against the appraiser within the next 24 months Inv 214-139 will be dismissed. A conditional dismissal is not reported to the National Registry. Kathy Maier seconded the motion. Dave Lanpher, Brock DesLauriers, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried

John Hraba holds a ND certified general appraiser permit. In response to a question on his 2014 Renewal Application: *"Have you had your real estate appraiser certificate or license suspended, placed on probation, or otherwise disciplined in North Dakota or any other state in this past year?"* Mr. Hraba indicated "no". It was brought to the attention of the Board that Mr. Hraba entered into a Consent Order with the Minnesota Commissioner of Commerce on March 19, 2013.

Mr. Hraba was provided the opportunity to submit an explanation. The Board reviewed the information provided. Kathy Maier moved there is sufficient evidence to move forward with the complaint process and offer Mr. Hraba a Settlement Agreement. The terms of the agreement to include: 1) revocation of

Mr. Hraba' s ND certification permit and 2) Mr. Hraba will be prohibited from applying for a North Dakota permit for a period of one year. Dave Lanpher seconded the motion. Further discussion took place. Kathy Maier amended her motion to from "one year" to "two years". Dave Lanpher seconded the amendment. Dave Lanpher, Brock DesLauriers, Kathy Maier, Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Rules/Legislation:

Rules: Edward Erickson, legal counsel reported that the public hearing on the Proposed Rules was held on October 20, 2014. No comments were received. Public comment period was scheduled through October 30, 2014. No comments were received. Rules have been forwarded to the Attorney General's office for review for legality. Upon approval for legality, the rules will be submitted to the Administrative Rules Committee for consideration; the hearing before the Committee should be sometime in December.

Legislation: The Board discussed amendments to 43-23.3 at the conference call meeting of October 29, 2014. Mr. Erickson provided a draft with the following amendments:

43-23.03 Powers and Duties of the Board.

2. The board, or the board's designated representative, may:
 - a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
 - b. Contract for services necessary to carry out this chapter.
 - c. ~~Enter reciprocity agreements with other states.~~

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may

not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.-04.1.

43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.

The board shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and if grounds for denial of the application under section 43-23.3-18 do not exist. ~~If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state.~~ Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision.

43-23.3-09. Appraisal experience.

The board may issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who possesses the minimum experience requirements established by the board. The Board ~~may~~ shall require an applicant to furnish, under oath, a detailed listing of the appraisal reports or file memoranda for which appraisal experience is claimed by the applicant.

43-23.3-24. Criminal history record checks.

The board shall require an applicant for a permit, under sections 43-23.3-04.1, 43-23.3-07, 43-23.3-08, and 43-23.3-09, ~~and 43-23.3-11,~~ and may require a permittee to submit to a statewide and nationwide criminal history record check.

Dave Lanpher moved to approve the proposed amendments to 43-23.3. Tim Timian seconded the motion. Dave Lanpher, Brock DesLauriers, Kathy Maier, Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Education:

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

North Dakota Tax Department: Course 101- Tax Administration

Tim Timian moved to approve the course for 7 hours, as appraisal related. Dave Lanpher seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Other Business:

Discussion turned to frivolous complaints, frivolous "anonymous" complaints in particular, versus valid complaints. A complainant without verification can be extremely damaging to an appraiser. The Board discussed drafting language that will protect the public but also protect appraisers from frivolous complaints. The Board determined that a complaint should not be considered a "complaint" until the Board deems it a formal complaint. Legal Counsel was going draft appropriate language to amend statute. A conference call meeting will be scheduled for Board review and approval.

Chairperson Ibach called for adjournment.

Respectfully submitted,

Jodie R. Campbell, Executive Secretary