

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

December 14, 2015 - MINUTES
Ramkota Hotel, Bismarck

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

Board Members present:	Chairperson Dave Lanpher	Tim Timian
	Kathy Maier	Brock DesLauriers
	Joe Ibach	
Staff Present:	Edward Erickson, Legal Counsel	Jodie Campbell
		David Campbell
	Mike Splonskowski	Robert Harshberger
	Eric Oberg	Caitlin Timian
	Leah Reynolds	Robert Gietzen
	Gretta Pollard	
	Derek Mosset	
Others Present Online:	Greg Smith	Theron VonBehren

Public Comment Period: No comments

Minutes: Board members reviewed the minutes of September 21, October 1, and October 12, 2015, with corrections noted. Kathy Maier moved to approve the minutes as corrected. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Joe Ibach and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants:

Derek Mosset is making application for certified residential and was present for discussion. Mr. Mosset's initial application was discussed at the meeting of February 6, 2015. Based on review of work product the Board tabled Mr. Mosset's application for certified residential and requested he submit additional work product for review. Reports have been submitted and reviewed by an independent reviewer. Discussion took place.

Through discussion Mr. Mosset disclosed that he used unauthorized reports as a template for his current work product. These reports were the possession of his supervisory appraiser. Based on the Confidentiality Provision of USPAP, the reports should remain confidential to the Supervisor. Therefore, in reviewing and utilizing these reports Mr. Mosset was in violation of USPAP.

Discussion moved to review of his reports submitted for upgrade. The reports were found to meet the minimum standards of USPAP. However, the issue of confidentiality is a concern. Mr. Mosset appears to lack an understanding of the basics of the Ethics/Confidentiality Provision of USPAP.

Tim Timian moved to conditionally approve Mr. Mosset's application for certified residential. Prior to issuing Mr. Mosset a certified residential permit, Mr. Mosset must submit verification of successful completion of a 15-Hour USPAP Course in a classroom setting. One requirement to become a supervisory appraiser is the appraiser must be certified for a period of three years. Should Mr. Mosset apply to become a supervisory appraiser, he will not be allowed to supervise until he meets the requirements for a supervisory appraiser and successfully completes another 15- Hour USPAP Course. Verification must be provided. Joe Ibach seconded the motion. Discussion took place. Kathy Maier, Brock DesLauriers, Joe Ibach, Tim Timian and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Permits Issued/Require Board approval: Staff reviewed, approved and issued certified general permits to the following applicants: David Binner via reciprocity with IA and John K. Wyatt via reciprocity with AZ.

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

Supervisory Issues:

Theron Von Behren is present online for discussion of reviews completed on work product submitted by Jeremy Hein as part of Mr. Hein's application process for licensure. The reviews completed on Mr. Hein's work product indicated noncompliance with USPAP. Mr. Von Behren signed the reports as Mr. Hein's supervisory appraiser. The Board requested Mr. Von Behren provide a written response to the issues noted in the reviews. Mr. Von

Behren addressed the Board at the meeting of September 21, 2015 via teleconference call. He was online to discuss the reviews, however, did not provide a written response, as requested. The Board members tabled discussion until receipt of a written response. Mr. Von Behren has since provided his response.

Discussion took place. Some of the deficiencies outlined in the reviews included: 1) no scope of work reported other than what is on the preprinted form; 2) report lacked analysis and support for adjustments and conclusions; 3) no explanation why the income and cost approach were excluded from consideration; 4) sales comparison approach - several discrepancies and areas needing clarification; 5) no third party verifications stated and no reference in work file; 6) no highest and best use analysis in work file and no summary in report; 7) reconciliations appear to be incomplete or missing; 8) work file lacks documentation, support or analysis for opinions, adjustments, conclusions or data verification.

Mr. Von Behren questioned providing additional clarification throughout the report as his client was a banker/friend. Board members noted that this appears to be suggesting to his apprentice that providing analysis or clarification is not required, when USPAP clearly requires the appraiser surmise highest and best use, describe the neighborhood, report the scope of work etc.

Board members were in agreement that it is the supervisor's responsibility to guide the apprentice through the appraisal process for compliance with USPAP. Mr. Von Behren's response did not address the issues noted in the reviews and further questioned Mr. Von Behren's ability to supervise in ND.

Joe Ibach made a motion that sufficient evidence exists to move forward with an investigation and file a complaint against Theron VonBehren. Tim Timian seconded the motion. Joe Ibach, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Joe Ibach moved to proposed an offer of settlement in lieu of disciplinary action. The terms of the offer include: 1) Successful completion of a sales comparison approach course approved by the AQB; 2) Successful completion of a cost approach course approved by the AQB; 3) After completion of courses Mr. Von Behren must submit two additional work product for Board Review and 4) Appraiser cannot supervise in North Dakota for 3 years from the date of signing the agreement. Tim Timian seconded the motion. Joe Ibach, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants:

Gretta Pollard is making application for licensure and was present for discussion. Review of Ms. Pollard's application indicates she meets the education and experience hour requirements for licensure. Reports were reviewed by an independent reviewer. The reviews indicated various issues. Discussion took place. Among the issues discussed included: 1) appraiser did not analyze purchase agreement; 2) property was listed at \$160,000, sold at \$131,000 and appraised at \$145,000 with no analysis provided; 3) sales contract was not analyzed; 3) adjustments do not appear to be market supported; 4) concern with selection of comparables; 5) weak cost approach; 6) lack of support for highest and best use; and 7) a consistent lack of analysis and support throughout the reports.

Based on review of work product and discussion with Ms. Pollard, the reports submitted do not meet the minimum standards of USPAP. Joe Ibach moved to table Gretta Pollard's application for licensure and request additional work produce for Board review. This log must at least 6 months after the date of this meeting. Two reports will be selected for Board review. The reports submitted must include the sales comparison and cost approaches to value. Kathy Maier seconded the motion. Dave Lanpher, Brock DesLauriers, Tim Timian, Kathy Maier and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Leah Reynolds is making application for certified residential and was present for discussion. Review of Ms. Reynolds' application indicates she meets the education and experience hour requirements for certified residential. Reports were reviewed by an independent reviewer. The reviews indicated various issues with the income producing property. Board members discussed the areas of concern, some of which included: 1) highest and best use should be specific to the property; 2) stated leasehold interest; should be leased fee interest; 3) contract dates do not match those stated in MLS; 4) the appraisal should contain enough information to replicate the cost approach, it does not; 5) appraisal included minimal information to support the highly reduced effective age; and 6) no signed certification page.

Based on review of work product and discussion with Ms. Reynolds, the Board determined the reports submitted do not meet the minimum standards of USPAP. Kathy Maier moved to table Leah Reynolds' application for

certified residential. Ms. Reynolds' must submit one additional report for Board review. The report submitted must include all three approaches to value. Tim Timian seconded the motion. Joe Ibach, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Investigations:

Case 215-155: The Board reviewed the allegations and the respondent's response to the allegations. The appraiser was present for discussion. The allegation centered around an assignment for an appraisal to be completed on a house, buildings and 10 acres of land for refinancing purposes. The appraiser completed an appraisal of the house, but included only 2 of the 10 acres of land and no outbuildings. The lender would not accept the appraisal. A second appraisal was completed. This appraisal included the house, the outbuildings and 10 acres of land. Both appraisals came in at the same value. Discussion took place.

Kathy Maier made a motion to move forward with an investigation. Tim Timian seconded the motion. Joe Ibach, Tim Timian, Brock DesLauriers, Kathy Maier and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

Joe Ibach made a motion to move forward with a field review. Kathy Maier seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Joe Ibach and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 215-151: The Board reviewed the allegations and had various questions. The AMC provided the appraiser information, why was the information not used by the appraiser? The appraiser appeared to base his appraisal off from a sale that may have not been exposed to the market. Was this sale exposed to the market? Further discussion relative to the allegations outlined in the correspondence took place. The Board determined the allegations could have merit.

Joe Ibach made a motion that sufficient evidence exists to initiate an investigation and request the appraiser respond to the allegations. Kathy Maier seconded the motion. Joe Ibach, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 215-154: The Board reviewed the allegations and the respondent's response to the allegations. The allegations allege inaccuracies throughout the appraisal report, as well as the inclusion of personal and property information from a different homeowner. Discussion took place. In his response, the respondent admitted the wrong comparable pictures and appraisal supplemental were included in the report and this should not have happened. The respondent's written response further addressed the various issues outlined in the allegations.

There have been no previous allegations filed against this appraiser. Having considered the allegations and response to the allegations, Tim Timian moved to offer a conditional dismissal of the allegations. Brock DesLauriers seconded the motion. Kathy Maier, Tim Timian, Brock DesLauriers, Joe Ibach and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

Kathy Maier moved to offer the appraiser a conditional dismissal on the following terms: 1) there must be no valid complaints filed against the appraiser within the next 24 months and 2) the appraiser must reimburse the client's appraisal fee. Confirmation of the reimbursement must be provided. A conditional dismissal is not reported to the National Registry. Kathy Maier, Tim Timian, Brock DesLauriers, Joe Ibach and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

Edward Erickson, legal counsel, provided an update on pending cases.

The remainder of the agenda was tabled.

Joe Ibach moved for adjournment. Brock DesLauriers seconded the motion. Joe Ibach, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Chair Lanpher adjourned the meeting.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary