

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes- April 29, 2019
Board Teleconference Call Meeting

Chairperson Timian called the teleconference call meeting to order at 1:30PM. Roll call was taken.

Board Members present: Chairperson Tim Timian Corey Kost
Kathy Maier Joe Sheehan
Brock DesLauriers

Staff Present: Jodie Campbell David Campbell
Allyson Hicks, Legal Counsel

Rules: The Board received notice from the Office of Attorney General that the Appraiser proposed Rules have been approved for legality. Upon final adoption by the Board, the Rules will be filed with Legislative Council. Corey Kost moved to approve the Rules as received by the Attorney General's Office. Kathy Maier seconded the motion. Chairman Timian called for the vote. Corey Kost, Kathy Maier, Joe Sheehan, Brock DesLauriers and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Waiver Request: The waiver request has been resubmitted to and recognized by the Appraisal Subcommittee (ASC) as a formal request for a temporary waiver. In brief, the waiver must prove two conditions exist in ND: 1) there is a scarcity of appraisers in ND and 2) the scarcity is leading to significant delays for appraisal services relating to FRT's.

A detailed discussion took place. Does the Appraiser Board draft a formal response to the waiver request? If so, the Board needs to vote whether to support, oppose or remain neutral. The following points were discussed:

- The applicants' request for this waiver is far too broad. If the waiver were to identify that there is a scarcity in a specific location and request a waiver for that specific location, under certain conditions, we could focus on addressing these issues and be more productive about ways to remedy them.
- There may be evidence that a problem exists in rural areas, certain locations and property types. However, there is also evidence that there is not a scarcity of appraisers throughout the state of ND.
- The trends that we are seeing, and even the request indicates, that new loans were down 20% in 2017. Reports from other sources (appraisers, appraisal organizations, etc.) indicate trends are moving in a positive direction relative to timeliness. This does not mean that there are not isolated incidences where real issues do exist, but isolated incidences are not representative of what is typical across the entire state.
- There are alternatives to remedy the scarcity of appraisers that are not being used by lenders. Recent legislation, Senate Bill 2155, The Economic Growth, Regulatory Relief, and Consumer Protection Act is one example of an alternative. It states that an appraisal is not required if a property with a transaction value of less than \$400,000 is located in a rural area and the lender has made a concerted effort to obtain a timely appraisal. This legislation was driven by SD and ND legislators.
- How can the Board support a waiver that would allow lenders to acquire appraisals from non-credentialed appraisers, when there are no qualification standards included in the waiver?
- Define the waiver to set geographical areas. Currently the set area is the entire state of North Dakota, when clearly that is not the case- could see a much better argument if it was defined to a specific area.
- Certain lenders are only allowing "certified appraisers" on their appraiser roster. Lenders should take advantage of all available appraisers, such as licensed appraisers, before allowing non-credentialed appraisers to complete appraisals.
- Assignment conditions that are placed on appraisers across the Board are more of a challenge in the rural areas. There are USPAP requirements, and then there are lender overlays on top that appraisers are expected to follow.
- Data availability in rural areas is a challenge in rural ND. When we may have two thirds of the assessing

information not available online, that's a big problem. This could be remedied by unifying the system.

- One of the issues the ND appraiser industry is facing is prospective appraisers trying to get into the business. Prospective appraisers are finding it difficult to find a supervising appraiser.
- Support the implementation of Appraisal Qualifications Board PAREA concept. This is an alternative route to appraiser experience.
- There is a lack of communication between the professional appraiser organizations and the Appraiser Board, and the Lenders (Department of Financial Institutions, ND Bankers Association, etc.) The only communication the waiver requestors had with the Appraiser Board about the waiver is the meeting the Appraiser Board initiated after the request for a waiver was submitted to the ASC.
- These issues addressed in the waiver should be addressed at the state level versus the federal level.

Discussion of the waiver was placed on hold to address an application in Executive Session. Discussion of the waiver will resume after the close of Executive Session.

Applicant for Certification:

Ryon Rypkema is making application for certified general via reciprocity with South Dakota.

Chairman Timian called for Executive Session and looked to Allyson Hicks, Legal Counsel to address the process:

The next item on the agenda is review of application for certification and consideration of criminal history records check information. This item must be discussed in Executive Session as it deals with confidential records. The legal authority for closing this portion of the meeting is NDCC 44-04 –19.2(1) and NDCC 12-60-24. The topic or purpose of this executive session is discussion of an application and a CHRI results. At this time, as the meeting must be closed the Board will convene in Executive Session. The Executive Session will be recorded, and all members of the governing body are reminded to limit their discussion during the executive session to the announced topic. Any collective decision collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless the final action is specifically required by law to be taken during the executive session.

We will now move to the executive line. We anticipate adjourning the Executive Session and reconvening the open portion of the meeting at approximately 2:40pm. The minutes will show that the Executive Session began at 2:20pm Board members and legal moved to the executive line.

Executive Session adjourned at 2:35pm. The Board moved to open session. No action came out of Executive Session.

Waiver Request discussion points continued:

- The number of new loans that originated in North Dakota per the number of appraisers in North Dakota does not appear to be out of line. North Dakota, South Dakota and Montana were all in the range of 42 to 44 loans per appraiser with a population of 2400 to 2500 per appraiser.
- What are the unintended consequences from the result of the waiver...? future access to appraisers?
- Would holding an appraiser credential become a detriment rather than an asset to the appraiser? If an individual holds an appraisal credential, that individual is subject to the Board's oversight and discipline. An individual who does not hold a credential is not subject to licensing fees, Board oversight, or liability.
- What would make an individual qualified to complete an appraisal? Who might be qualified to complete these appraisals? Would the waiver preclude those who have been disciplined or had their license revoked from completing appraisals?
- Who would assure that the appraisals non-credentialed appraisers are performing are USPAP compliant? Who would have jurisdiction over a non-credentialed appraiser?

- If someone who is performing appraisals does not have a license and they perform an appraisal that is not compliant with USPAP what would be the repercussions? Would there be any?
- If the financial institutions went out and secured appraisals for FRT's that were not USPAP compliant, would they have any liability? What would the repercussions be for them? Is this system going to protect the public?
- What would be the impact on the consumers? Would the financial institution be required to disclose to the consumer that the appraisal completed on their property is not performed by a credentialed appraiser? Would not the homeowner assume the appraisal is being completed by a credentialed appraiser? This could be seen as misleading to the consumer if not disclosed.
- If a consumer would want the appraisal to be completed by a credentialed appraiser would they have that option?
- Does the waiver benefit financial institutions or consumers enough to outweigh the increased risk that is out there for consumer protection and safety and soundness? No.
- The waiver request provides information/documentation from the lenders. We have not heard from the appraisers. It is important to here from both sides in order to form a proper opinion.

Legal Counsel addressed concerns as well:

- Does the ASC have the authority to waive the state of ND statute regarding licensure?
- Is the ASC aware of the fact that the waiver participants did not bring this matter to the attention of the ND Appraiser Board or ND appraiser organizations prior to requesting this waiver?
- This Board is tasked with protecting the public 1) when issuing a license to an appraiser and 2) guaranteeing that the appraiser performing the appraisal is qualified to do so and that the appraiser presents an accurate USPAP compliant appraisal. When making this decision the Board must weigh the need to fulfill its duty to protect the public, with the need to ensure that the public has access to loans.
- Legal Counsel reminded Board members to vote as a board member, not as a financial person or as an appraiser. The Board is tasked with protecting the public and needs to weigh the facts and circumstances within the scope of the Board's duties.

Corey Kost made a motion to draft a response letter to the Appraisal Subcommittee regarding the appraisal waiver request, overall, in opposition to the applicants' request. The draft would be brought to a future Board meeting for review, discussion and final approval by the Board. Kathy Maier seconded the motion. Chairman Timian called for the vote. Kathy Maier, Corey Kost, Brock DesLauriers, Joe Sheehan, and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

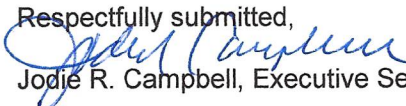
Open Records Request: An open records request has been made by Kyra Hill of Braaten Law Firm, on behalf of Kurt Kielisch, to obtain a copy of Mr. Kielisch's investigative file and all documents submitted and communicated between the Board and the National Registry as it relates to Mr. Kielisch.

Corey Kost moved to approve the request and forward Mr. Kielisch a copy of his investigative file as requested. Kathy Maier seconded the motion. Chairman Timian called for the vote. Corey Kost, Kathy Maier, Joe Sheehan, Brock DesLauriers and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Corey Kost made a motion to release to Mr. Kielisch any correspondence between the Appraiser Board and the ASC relating to Kurt Kielisch and the National Registry. Kathy Maier seconded the motion. Chairman Timian called for the vote. Corey Kost, Kathy Maier, Joe Sheehan, Brock DesLauriers and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Chairman Timian called for adjournment.

Respectfully submitted,


Jodie R. Campbell, Executive Secretary