

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes – June 10, 2020 Board Meeting – Zoom/ Teleconference Call

Chairperson Timian called the meeting to order at 9:05 AM. Roll call was taken.

Board Members present:

Chairperson Tim Timian
Corey Kost

Brock DesLaurier
Kathy Maier

Board members absent:

Joe Sheehan

Staff Present:

Jodie Campbell
Allyson Hicks, Legal Counsel

David Campbell

Investigations: Case 218-186 & 187: Allyson Hicks, Board Legal Counsel, provided an update on the status of the proposed settlement agreement offered to Jerry and Kelly Weber. The proposed agreement was forwarded to Mr. Ron McLean, legal counsel for Kelly and Jerome Weber via mail on April 30, 2020. To date, no response has been received. Legal Counsel contacted Mr. McLean and he indicated he never received the proposed agreement. Legal Counsel forwarded a copy via email and received verification of receipt.

At the meeting of April 29, 2020, the Board discussed a possible ethics violation by Jerry Weber regarding misleading use of designations and affiliations with professional appraiser organizations. This concern was noted in the review completed by the Board reviewer, as well. Mr. Weber did not provide a respond to this concern. In review of the ASA website there was no listing of Jerome Weber as being affiliated with the ASA. However, in further contact via telephone conversation with the ASA, verification was provided that Mr. Weber was affiliated with the ASA organization. Based on these findings, the requirement of completion of a 15-hour ethics course should not be included as one of the terms of the proposed settlement agreement.

Kathy Maier moved to remove the requirement of successful completion of an ethics class from the proposed settlement agreement. Brock DesLauriers seconded the motion. Chairman Timian called for the vote. Brock DesLauriers, Kathy Maier, and Chairman Timian voted yes. Corey Kost abstained from discussion and voting. Motion carried. Legal Counsel will forward a revised agreement on to Mr. McLean, legal counsel for the Weber's.

Case 219-194: At the meeting of March 30, 2020, the Board requested the Board Investigator complete a Standard 3 Review. Board Members were provided a copy of the review and Daniel Boris's response to the review. Discussion took place.

The Standard 3 Review confirmed the issues addressed in the complaint, in the investigative report and discussed at the March 30th meeting. Some of the issues of major concern included: 1) lack of competency/geographic competency, 2) failure to develop an income approach or provide an explanation as to why the income approach was not used, 3) sales comparison approach lacks credibility/concern with adjustments and verification of sales, 4) lack of market support for the highest and best, and 5) failure to analyze land uses/failure to recognize the impact that land uses have on value.

Based on the Investigative Report, the Standard 3 Review and Board discussion, Corey Kost moved to offer Daniel Boris a settlement agreement to include the following terms:

- 1) payment of a \$2500 fine,
- 2) pay restitution to the complainant for the appraisal fees incurred,
- 3) successful completion of a 30-hour tested highest and best use course focusing on agricultural property,
- 4) successful completion of a 30-hour tested sales comparison approach course focusing on agricultural property, (courses are at the expense of Mr. Boris and cannot count towards continuing education)
- 5) Mr. Boris's ND certified general permit will be on probation for a period of 24-months:
as a condition of probation:
 - a) the scope of work during this 24-month probationary period restricts Mr. Boris from appraising agricultural property in ND,
 - b) Mr. Boris must keep an experience log throughout the 24-month probationary period, the log can be submitted in 3-month increments and
 - c) the Board may select up to three appraisals for review over the course of the 24 months, review costs are at the expense of Mr. Boris.

Kathy Maier seconded the motion. Chairman Timian called for the vote. Kathy Maier, Corey Kost, Brock DesLauriers, and Tim Timian voted yes to the motion. Motion carried.

Temporary Waiver:

Lise Kruse with the Department of Financial Institutions contacted Corey Kost and informed him that the Requestors of the 2018 ND Temporary Waiver will be applying for a one-year extension of the Waiver. Ms. Kruse is requesting the Appraiser Board support a one-year extension, or, if the Board does not support the extension, take a neutral stance.

Corey provided Board members a brief timeline relative to the Waiver:

- August 7, 2019: The ND Temporary Waiver was issued.
- November 6, 2019: DFI hosted a meeting of interested stakeholders. Appraiser Board members and Administrators were among the attendees.
- There were discussions of a second meeting to include John Brenan, with the Appraisal Foundation.
- Corey extended an invite to all stakeholders to attend the North Dakota Appraiser Association Conference and Education event being held November 21-22, 2019. The event included a class on rural area appraising. Two or three individuals from financial institutions attended the conference.
- June 5, 2020: Corey received a call from Lise Kruse requesting the Board support a one-year extension of the Waiver.
- July 7, 2020: The deadline for the Waiver Requestors to submit a request for an extension of the current Waiver (30 days prior to the expiration of the Waiver).
- August 6, 2020: If not extended, the Waiver expires.

When the ASC granted the one-year waiver the Requestors were to develop a plan and continue dialogue with the ND stakeholders to identify potential solutions to address the appraiser scarcity. As part of the request for an extension, the Requestors are required to provide the ASC with a status report on the plan that was developed and provide supporting data showing that the appraiser scarcity, leading to significant delays, continues to exist.

Discussion continued. There has been no hard evidence provided to the Board to support a statewide extension. The Board questioned 1) the number of instances where the appraiser waiver has been utilized, 2) what are the property types of the appraisals, 3) what are the locations where the waiver was utilized and 4) when the appraiser waiver is being utilized, are the appraisals that are being completed by non-credentialed appraisers being monitored for USPAP compliance?

The Board discussed possible solutions to address the "pockets" where scarcity could exist.

- increase data availability
- work with colleges and universities to create educational programs
- work with ND Career Builders to assist in reimbursing education fees new appraisers incur
- work on facilitating better connections between lenders and appraisers - encourage appraisers to reach out to rural lenders who do not have the consistent work to supply appraisers
- the ASC grant program could be a good resource

Prior to the Board taking a stance on an extension of the waiver, Corey Kost moved to request the following information for Board review:

- a copy of the survey completed by the Department of Financial Institutions,
- a log of the number of instances the appraiser waiver has been utilized,
- a listing of the property types of the appraisals and locations where the waiver was utilized,
- the process used for reviewing the appraisals completed by non-credentialed appraiser for USPAP compliance,
- a random sample of appraisals completed by non-credentialed appraisers for review for compliance with USPAP.

Kathy Maier seconded the motion. Chairman Timian called for the vote. Kathy Maier, Corey Kost, Brock DesLauriers, and Tim Timian voted yes to the motion. Motion carried.

Other Business:

Communication between Board and Appraisers:

- Draft a listing of issues/concerns the Board has found through its review process of upgrades, allegations

and/or complaints.

- Reach out to associations to work on ways to communicate with appraisers
- Present the concept of an idea-sharing forum such as Appraiser Peer Group or Chalkboard to the associations (appraiser driven- using Board as a consultant)

ASC Grant Program:

The ASC will begin offering States grant opportunities for newly developed programs this year. The grants could range from \$25000 - \$125000 for each jurisdiction for a 3-year period. The deadline for the first application process is August 17, with the next mid-December. States will be afforded the opportunity to make a request for assistance in areas relating to technology, education, training etc.

The Board discussed areas ND may want to consider applying for assistance in :

- A program to help alleviate the shortage of appraisers in certain pockets of ND
- Development of a program to assist in training new appraisers/supervisory program
- Technology (AMC online database/ ASC web service "SOAP")
- Investigator/Board member training

Board members also discussed concerns with how time consuming a grant writing process can be. Staff reported that the ASC will be offering a number of webinars to assist States with the grant writing process.

Chairman Timian called for adjournment at 10:34 AM.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary