

# NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

June 23, 2016 - MINUTES  
Ramkota, 800 S 3rd Street, Bismarck, North Dakota

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

Board Members present:	Chairperson Dave Lanpher Kathy Maier Joe Ibach	Tim Timian Brock DesLauriers
Staff Present:	Edward Erickson, Legal Counsel	Jodie Campbell David Campbell
Guests Present:	Eddy Mitzel Kaitlyn Timian, ND ASFMR Gretta Pollard Nancy Willis ND Realtors Assoc. Dot Frank, ND Homebuilders Assoc	Todd Schmidt Sheila Ressler Corey Kost Dean Rylander, ND Appr Assoc.
Guests Present Online:	Kurt Kielisch Kathy Berry	Eric Oberg

**Public Comment Period:** No comments

**Minutes:** Board members reviewed the minutes of June 10, 2016. Joe Ibach moved to approve the minutes. 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.

**Investigations:**

Inv 214-133: The respondent, Kurt Kielisch was online for discussion. The complainant alleges bias and general lack of competency. A detailed discussion took place. Some of the issues of concern discussed included: 1) the value was based on sales from a different County. The agricultural market is very location specific. Therefore, using sales outside the locale may be misleading, 2) disregard of the income approach when have investors buying; an explanation should be provided when excluding of an approach to value, 3) did not state minerals, property rights, 4) did not appear to pair similar sales with similar properties with transmission lines, 5) lack of support for time adjustment, 6) lack of reasoning or support for reconciliation. The Board members concluded the report shows fundamental issues that are deficient.

Based on the allegations and review of all the information provided, the Board determined there was probable cause to believe a violation has occurred. Joe Ibach moved to proceed with disciplinary action. Tim Timian seconded the motion. Kathy Maier, Tim Timian, Brock DesLauriers, Joe Ibach and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Tim Timian moved to offer Kurt Kielisch a Settlement Agreement. The terms of the Agreement to include 1) payment of review costs (\$6000) and 2) before Mr. Kielisch can re-apply for certification in North Dakota he must successfully complete a two-day USPAP course and course on Yellowbook. Joe Ibach 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: At the meeting of 12/14/15, the Board determined the allegations could have merit, moved there was sufficient evidence to initiate an investigation, and requested a response to the allegations. The respondent, Mark Thelen was present today for discussion.

Board members reviewed the allegations and response. The complainant alleged that the appraiser used comparable sales and listings that do not adequately support his opinion of value, leading to an inadequate or misleading reconciliation of value. Discussion took place. Some of the Issues discussed included the 1) complexity of the appraisal for a licensed appraiser, 2) appraisal lacked adjustments for location, 3) sales exposure to the market and 4) support for value was weak.

Considering the allegations and response to the allegations, Joe Ibach moved for a conditional dismissal on the following terms: Within the next 6 months, Mr. Thelen must complete the following education: 1) a minimum 15-hour tested sales comparison approach and 2) a course on complex properties. Kathy Maier 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.

Inv 214-141: The respondent, Tonia Dosch, was in attendance for discussion. At the meeting of September 30, 2014, the Board reviewed the allegations and response and determined a field review was in order. A field review was completed and Ms. Dosch provided a response to the review. Discussion took place. The Board members concurred with the review, there were a number of issues of concern. Some of the issues discussed included: 1) the appraiser did not address the fact that the property was lakefront/waterfront property; 2) the appraiser did not fully acknowledge the subject's renovations, 3) the appraiser did not properly address/adjust for the quality or condition, and 4) the range in value of the comparables implied/supported a higher value than appraised. The Board members concurred these deficiencies resulted in a flawed reconciliation of value, consequently the appraised value may have been understated.

Based on the allegations and review of all the information provided, the Board determined there was probable cause to believe a violation has occurred. Tim Timian moved to proceed with disciplinary action and offer Ms. Dosch a Settlement Agreement on the following terms: 1) payment of review costs; 2) successful completion of a two-day course "*Advanced Residential Application and Case Studies*"; and 3) complete a demonstration report on the property in question. Joe Ibach seconded the motion. Kathy Maier, Joe Ibach, Tim Timian, Brock DesLauriers and Dave Lanpher all voted yes. The vote was unanimous. Motion carried.

Case 216-159: Board members reviewed the allegations and the respondent's (Charlotte Holverson) response to the allegations. Discussion took place. The complainant indicated the property appraised for far less than expected. The comparables were not good comparables of the property. The builder provided comparables to Ms. Holverson, that she did not use. Ms. Holverson provided a detailed explanation, indicating that comparables provided to her were all custom built homes; not market driven. The comparables she used were from the open market. Board members found this appropriate.

After review and discussion of all the information provided, the Board determined the appraiser had fully addressed the allegations. Based on the information received and reviewed, the Board determined no further action was required. Tim Timian made a motion to dismiss 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.

Theron von Behren submitted a counter offer relative to the Board's April 11, 2016 offer of settlement. Mr. Von Behren indicated he would never act as appraiser in ND nor ever renew his ND license. Therefore, he proposed the payment of a reasonable fine and to keep his ND permit on inactive status in perpetuity.

Tim Timian moved to amend the Board's offer of settlement. The terms of the amended offer include, 1) Mr. Von Behren voluntary surrender of his permit within 30 days of receipt of the offer and 2) payment of a \$1500 fine within 30 days of signing the agreement. Kathy Maier seconded the motion. Kathy Maier, Tim Timian, Joe Ibach, Brock DesLauriers, and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

Edward Erickson, legal counsel, provided an update on pending cases settlement agreements and correspondence.

Inv 214-146A / Inv 214-146B: Staff forwarded letters to the complainants requesting more detail relative to the issues of concern. To date, no further information has been received. Tim Timian moved to close the case. Joe Ibach seconded the motion. Kathy Maier, Tim Timian, Joe Ibach, Brock DesLauriers, and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

Inv 215-150AN/Inv 215-152AN: Tina Jennings, the appraiser involved in these two cases placed her certified residential permit on inactive status. Joe Ibach moved to close Inv 215-150An and Inv 215-152AN such time Ms. Jennings reactivates her permit. Kathy Maier seconded the motion. Kathy Maier, Tim Timian, Joe Ibach, Brock DesLauriers, and Dave Lanpher voted yes to the motion. The vote was unanimous. Motion carried.

### **Applicants**

Michael Cline withdrew his application for certified general.

Gretta Pollard is making application for licensure and was present for discussion. Ms. Pollard's initial application was discussed at the meeting of December 14, 2015. Based on review of work product the Board tabled Ms. Pollard's application and requested she submit two additional work product for Board review. Reports were submitted. Discussion

took place. Based on review of all work product, the reports appear to meet the minimum standards of USPAP. Kathy Maier moved to approve Ms. Pollard's application for licensure. Joe Ibach seconded the motion. Kathy Maier, Brock DesLauriers, Joe Ibach, Tim Timian and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

**Educational Reviews:** Eric Oberg and Sheila Ressler each submitted a report for review as part of the Board's educational review process. An independent review was completed on each report. Board members discussed the reviews with the appraisers. The appraisers were encouraged to utilize the review, as well as Board member comments, when completing future reports.

**Other Business:**

Review Procedure: Board members discussed revising the review process to include standardized review forms, as well as the use of a review committee/panel.

Investigative Procedure: Legal Counsel provided an update on settlement offers and correspondence.

Appraisal Subcommittee (ASC) State Review: ASC Staff, Claire Brooks and Vicki Metcalf are in ND conducting the required Two-Year State Compliance Review. The ASC conducts a State review on each State no less than every two years, reviewing the States' regulatory program for compliance with Title XI.

Ms. Brooks' and Ms. Metcalf's preliminary review of the ND regulatory program found nothing of substance. In practice, ND does comply with Title XI concerning reciprocity. However, language in ND Rules (tot-02-02.1-01 d) should be revisited to make sure it reads in compliance with FIRREA.

- AQB criteria requires that the apprentice appraiser be under the supervision of a certified appraiser. In practice, ND does not register licensed appraisers to supervise. However, language in ND statute (43-23.3-06) currently allows a licensed individual to supervise and needs to be amended to bring them into compliance with Title XI.

Ms. Brooks will forward their findings to the ASC. In turn, the ASC will review and issue a final ASC Compliance Review and Report to the Board with the findings.

Chairperson Lanpher thanked the ASC for their comments and assistance in the review process.

**2016 Board Meeting Schedule:** September 19 - Minot / December 5 - Bismarck

Board members and Staff thanked Joe Ibach for his many years of service on the Board. Joe concluded his final term as Board member by agreeing to assist the Board as a Reviewer/Investigator for the Board.

Tim Timian moved for adjournment. 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.

Chairman Lanpher adjourned the meeting.

Respectfully submitted,

Jodie R. Campbell,  
Executive Secretary