

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

June 25, 2014 MINUTES
Ramkota Hotel- Governor's Room
300 South 3rd Street, Bismarck ND

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

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| Board Members present: | Chairperson Joseph Ibach | Tim Timian | |
| | Kathy Maier | Harvey Huber | |
| | David Lanpher | | |
| Staff Present: | Edward Erickson, Legal Counsel | Jodie Campbell David Campbell | |
| ASC Staff Present: | Kristi Klamet | Claire Brooks | |
| Others Present: | Philip McKenzie | Leah Reynolds | William Dobyns |
| | Bob Gietzen | Tim Kreft | Joshua Miller |
| | Jason Austad | Kurt Kielisch | Mark Thelen |
| | Jack Zuger | Chris Dockter | John Hraba, online |
| | Wade Iverson | Joe Summers | John Hraba, |
| | Josh Clason | Robert Woods | Dean Vorland |
| | D. Scott Miller | Alexandra Dobyns | |

Minutes: Board members reviewed the minutes of February 27 and June 2, 2014. The minutes of February 27 should read Chase Dockter. Harvey Huber moved to approve the minutes as amended. Kathy Maier seconded the motion. Tim Timian, Kathy Maier, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Applications:

Applicant for Certified General:

Brie Leier is making application for certified general and was present for discussion. Review of Ms. Leier's application indicates she meets the education and experience hour requirements for certification. Based on review of work product and discussion with Ms. Leier, the Board determined that Ms. Leier has demonstrated a working knowledge for the certified general level. Dave Lanpher moved to approve Brie Leier for certified general pending successful completion of the certified general national examination. Tim Timian seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Kathy Maier and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants for Licensure: Jason Austad is making application for licensure and was present for discussion. Review of Mr. Austad's application indicates he meets the education, experience hours and examination requirements for licensure. Reports were reviewed for compliance with USPAP. Numerous deficiencies were noted indicating noncompliance with USPAP. Board members discussed the reviews with Mr. Austad. Some of the deficiencies included: 1) overuse of boiler plate language; 2) comments and scope of work did not appear to be written specific to the assignment; 3) one of reports the did not list the VA as an intended user and it should have been; 4) lack of analysis throughout all approaches; 5) concerns with the appraiser's understanding of exposure time versus marketing time; 6) lack of support for adjustments; 7) lack of analysis of purchase agreements; 8) special assessments appear to be misleading; and 8) although the appraiser is noted in the reports as providing significant assistance – no detail was provided as to what the appraiser did in the assignment.

Based on review of work product and discussion with Mr. Austad, Dave Lanpher moved to table Jason Austad's application for licensure and request Mr. Austad submit two additional reports for formal review. Mr. Austad is to submit a current log of appraisals from which two reports will be selected. Kathy Maier seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Kathy Maier and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Chase Dockter is making application for licensure and was present for discussion. Mr. Dockter's application was initially discussed at the meeting of June 25, 2014. Review of Mr. Dockter's work product indicated noncompliance with USPAP. Therefore, the Board tabled his application and requested he submit additional work product for review. Additional reports have been submitted and reviewed for compliance with USPAP. Based on review and discussion of current work product submitted by Mr. Dockter, the Board determined he has demonstrated a working knowledge for the licensed level. Dave Lanpher moved to approve Chase Dockter for licensure. Kathy Maier seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Kathy Maier and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried

Request for Active Status: Brent Haaland is requesting re-activation of his certified residential permit. Review of Mr. Haaland's application indicates he meets the requirements for active status. Tim Timian moved to approve Brent Haaland's request for active status. Dave Lanpher seconded the motion. Tim Timian, Kathy Maier, Harvey Huber, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried

Investigations:

Edward provided an update on agreements.

Alicia Vorland joined the meeting. Joe Ibach recused himself and turned the Chair over to Harvey Huber.

Alicia Vorland requested she have the opportunity to address the Board. Ms. Vorland joined the meeting. Joe Ibach recused himself and Harvey Huber took over as Chair. Ms. Vorland directed comments to the Board on a variety of issues including the timeliness of correspondence, issues with Board members and legal counsel, inaccuracies she found in the review, issues with the proposed settlement agreement offered to her, and more specifically, not receiving a list of the specific USPAP violations as requested. Ms. Vorland left the room immediately after addressing the Board.

Chairperson Huber called for discussion. Legal Counsel indicated that even though violations were not listed at length in the proposed settlement agreement, the violations were noted in the Review that was previously provided to Ms. Vorland. Legal Counsel further indicated that, to date, Ms. Vorland has not responded to the settlement offer with an acceptance, rejection, or request for modification, but that her statements appear to be a rejection of the settlement offer. Dave Lanpher made a motion to determine that there was a reasonable basis to believe that Alicia Vorland violated ND 43-23.3-21 (1)(b), (f) and (h) and to request the Attorney General's office initiate a disciplinary proceeding based upon these violations. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Dave Lanpher and Harvey Huber all voted yes to the motion. Joe Ibach recused himself from voting. Motion carried

Joe Ibach resumed as Chair.

Inv 214-133: Board members reviewed the complaint and response to the complaint. Mr. Kurt Kielish, the respondent, was present for discussion. The complaint, filed by another appraiser is questioning Mr. Kielish's methodology relative to transmission line appraisals he completed in Wells County. Mr. Kielish addressed the Board in support of his appraisals and his methodology. He indicated he found much of the complaint to be related to methodology "preference".

Board members requested additional time to review the information provided and discussed. Tim Timian moved to table the complaint. Tim Timian seconded the motion. Dave Lanpher, Harvey Huber, Tim Timian, Harvey Huber, Kathy Maier and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Inv 214-135: Board members reviewed the complaint and response to the complaint. John Hraha, the respondent, was online for discussion. Discussion took place. Tim Timian recused himself from discussion. Kathy Maier made a motion to move forward with an investigation and order a review be completed. Harvey Huber seconded the motion. Kathy Maier, Dave Lanpher, Harvey Huber and Joe Ibach voted yes to the motion. Tim Timian recused himself from voting. Motion carried.

Mr. Hraba indicated the appraisal is currently involved in pending litigation. Based on the additional information provided, Kathy Maier withdrew her motion. Harvey Huber seconded the motion to withdraw. Kathy Maier moved to table the investigation, based on the fact that the appraisal is involved in pending litigation. Harvey Huber seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier and Joe Ibach voted yes to the motion. Tim Timian recused himself from voting. Motion carried.

Inv 214-132: Board members reviewed the complaint and response to the complaint. Mr. Mark Thelen, the respondent, was present for discussion. The complainant (RELS) alleges the following deficiencies were noted in the report in question: 1) missing and unsupported adjustments, 2) misleading subject location and site descriptions, 2) inadequately supported reconciliation of value, 3) inadequate highest and best use, and 4) the comparables do not adequately support the value of opinion. RELS further alleges that the appraiser independently made the decision to appraise the property with a “hypothetical 10 acres”.

In his written response to the complaint, Mr. Thelen provided a detailed outline of the events. He indicated he accepted the assignment, but after researching the property information, reviewing the building plans and cost estimated, etc. he found that the highest and best use of the property was in question, ultimately changing the scope of work. Mr. Thelen contacted RELS and discussed the issues he found through his research. He indicated to RELS that he could complete the appraisal using a hypothetical assumption. RELS Staff directed him move forward with the appraisal. This communication was done verbally. He completed the report, clearly identifying in the report the hypothetical assumption. Discussion continued.

The Board was satisfied that Mr. Thelen’s written response, as well as discussion with him, addressed the issues outlined in the complaint. Kathy Maier moved for dismissal. Dave Lanpher seconded the motion. Dave Lanpher, Tim Timian, Harvey Huber, Kathy Maier and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Inv 214-130: Board members reviewed the complaint and response to the complaint. David Williamson, the respondent, was present for discussion. The complaint alleges geographic competency. The appraiser used Minot comparables on a rural property near Powers Lake with no location adjustments. Mr. Williamson addressed the Board. The appraiser indicated he relied on MLS due to limited data in rural areas. With ND being a nondisclosure state and the lack of any assistance from realtors or appraisers in the area makes it difficult to find information. Discussion took place. Board members informed Mr. Williamson that ND is no longer a nondisclosure state based on legislation that passed in 2013. Board members were very concerned that Mr. Williamson failed to research the market, commenting, that it is the appraiser’s responsibility to research the market and analyze the sales.

Staff informed the Board there is a second complaint against Mr. Williamson. Mr. Williamson has not had the opportunity to review and respond to this additional complaint. Staff reported that the complaint appears to address the same issues as Inv 214-130. The Board determined it appropriate to hold Inv 214-130 and consider both complaints at the same time. Kathy Maier moved to table this investigation. Harvey Huber seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Inv 214-134: Board members reviewed the complaint and response to the complaint. Greg Duchscher, the respondent, was present for discussion. The complaint involves an appraisal electronically submitted to RELS with Greg Duchscher listed as the signing appraiser. In RELS review of the report they found that Greg Duchscher did not complete the appraisal, it was completed by Nick Duchscher. In Greg’s response and discussion with the Board, he confirmed that he did not complete appraisal. He indicated Nick Duchscher completed the appraisal (with a verbal approval from RELS) and he (Greg) reviewed and confirmed the results. The error came when Nick inadvertently placed the incorrect cover letter in the report. Greg indicated this was an oversight and there was no intentional attempt to mislead the client.

Board members were in agreement they did not find malice intent. However, an error was committed. Kathy Maier moved to offer a settlement agreement in the form of a conditional dismissal of the complaint. The terms would include a 7-hour course agreed upon by Mr. Duchscher and Board Administrator, Dave Campbell. The course cannot count towards the required continuing education hours. Upon completion of the course the Board will dismiss the complaint. A conditional dismissal is not reported to the National Registry. Harvey Huber seconded the motion. Dave Lanpher, Harvey Huber,

Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Ted Thoms holds a ND certified general appraiser permit. On the 2014 Renewal Application completed by Mr. Thoms, one of the questions asks: "*Are there any complaints currently pending against you as a real estate appraiser in North Dakota or any other state?*" Mr. Thoms indicated "no" to this question. At the time Mr. Thoms completed and submitted his 2014 Renewal Application he was under investigation with the SD Department of Labor and Regulation. The SD Department of Labor and Regulation verified that Mr. Thoms received an official notice of the complaint on 4/29/13. Further verification from the SD Department of Labor and Regulation indicated that the complaint was still pending as of 2/21/14.

Mr. Thoms was provided the opportunity to submit an explanation. The Board reviewed the information provided. Dave Lanpher moved there is sufficient evidence to move forward with the complaint process. Tim Timian seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier, Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Dave Lanpher moved to offer Mr. Thoms a Settlement Agreement. The Agreement would entail revocation of Mr. Thoms' certification permit. In addition, Mr. Thoms will be prohibited from applying for a North Dakota permit for one year. Tim Timian seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Inv 214-136: Board members reviewed the complaint and the respondent's response to the complaint. The complaint involves a ND certified general appraiser signing a report while currently on inactive status. Discussion took place. The Board determined further information was necessary. Dave Lanpher moved to table this investigation and direct Staff to request a true copy of the appraisal. Kathy Maier seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Supervisory Issues:

Josh Clason signed reports as a supervisory appraiser that were found to be noncompliant with USPAP. The Board requested Mr. Clason respond to the deficiencies. Mr. Clason provided a written response, but was unable to attend the meeting. Harvey Huber moved to table discussion. Kathy Maier seconded the motion. Dave Lanpher, Harvey Huber, Kathy Maier, and Tim Timian and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Other Business:

ASC Staff, Kristi Klamet and Claire Brooks are in ND conducting the 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. Klamet and Ms. Brook's review of the ND regulatory program found:

- In practice, ND does comply with Title XI concerning reciprocity. However, language in statute and rules need to be amended to bring them into compliance.
- 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 rules and statute currently allow a licensed individual to supervise, therefore, need to be amended to bring them into compliance.
- ASC Policy Statement 7 B requires states resolve complaints within one year. Two investigations may be considered as "outstanding for more than one year". However, Ms. Klamet indicated these cases could possibly meet the "special documented circumstances" criteria. The ASC will make the determination once ND has the opportunity to respond to the review.

On behalf of the Board and Staff, Chairperson Ibach thanked the ASC for their comments and assistance in the review process.

Chairperson Ibach called for adjournment.

Respectfully submitted,

Jodie R. Campbell, Executive Secretary