

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes- June 5, 2017 DoubleTree by Hilton, West Fargo, ND

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
	Corey Kost	
Staff Present:	Jodie Campbell	David Campbell
Legal Counsel present:	Edward Erickson	
Guests Present:	Jeff Lee	Ross Berg
	Matt Schlenvogt	Ryan Haugen
	David Aaland	Thomas Raynor
	Joe Summers	
Guest Present Online:	Benjamin Mendez	Luke Koterba
	Aaron Abaurrea	Eddy Mitzel
	Patty Hodenfield	

Public Comment Period: No comments.

Minutes: Board members reviewed the minutes of February 13, 2017 and April 24, 2017. Tim Timian moved for approval of the minutes. Kathy Maier seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Corey Kost and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants:

Permits Issued/Require Board approval

Certified General:

- Scott A. Fowler (via reciprocity with TX)
- Barbara J. Hegerfield (via reciprocity with SD)
- Martin M. Lantinen (via reciprocity with MN)
- Bryan J. Lockard (via reciprocity with MA)
- Brent W. Maier (via reciprocity with IL)
- Giselle Nguyen (via reciprocity with CA)
- Kari K. Rageth (via reciprocity with MN)
- Andrew M. Thompson (via reciprocity with MN)

Certified Residential: Eric A. Oberg (via reciprocity with MN)

Licensed: Jessica B. Baughman (via reciprocity with CA)

Apprentice:

- Jacob A. Lommen (Rose Hoefs, Supervisory Appraiser)
- Kallie J. Knutson (Deanne Valenzuela, Supervisory Appraiser)

Staff reviewed, approved and issued permits to the following applicants:

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

Applicant Requiring Work Product for Review: Ryan Haugen is making application for certified general and was present for discussion. Review of Mr. Haugen's application indicates he meets the education and experience hour requirements for certified general. Reports were reviewed by an independent reviewer. Discussion took place. Review of work product indicates the reports appear to meet the minimum standards set forth in USPAP. Tim Timian moved to approve Ryan Haugen's application for certified general. Brock DesLauriers seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Supervisory Issue: Aaron Abaurrea signed an offer of conditional dismissal with the Board based on reports submitted by his apprentice and signed by Mr. Abaurrea did not the minimum Standards of USPAP. The terms of the conditional dismissal include the following: 1) successfully complete three courses; a) sales comparison approach, b) cost approach, and c) report writing; 2) after completion of the required education submit an experience log from which reports will be selected for review for compliance with USPAP; 3) review costs are to be paid by Mr. Abaurrea; and 4) there must be no valid complaints within 36 months following the date of his experience log.

Mr. Abaurrea has completed the education and submitted two reports for review. The reports have been reviewed by an independent reviewer. Discussion took place. The Board determined the reports appear to meet the minimum standards set forth in USPAP. Mr. Abaurrea has met the requirements of the agreement. Kathy Maier moved to dismiss the allegations. Tim Timian seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Investigations: Case 217-165: Thomas Raynor was present for discussion. A detailed discussion took place. Some of the issues of concern noted in the allegations and discussed by the Board included: 1) Timeliness; the appraiser failed to meet the completion date, 2) Record Keeping Rule of USPAP; the appraiser provided an oral report to the client but failed to provide support. An oral report requires all the support of a written report. 3) Leasehold interest; the assignment was to appraise the leasehold interest in a property, however, the appraiser appraised it as fee simple. 4) Credibility of the Report; the appraiser indicated a 10% deduction for property rights but provided no discussion or support - this could impact the value and affect the credibility of the report.

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

Tim Timian moved to offer Thomas Raynor a settlement agreement. The terms of the agreement to include: 1) Mr. Raynor has not been paid for the assignment. Should he be paid for the assignment he must reimburse the Client; 2) Payment of a \$750 fine; 3) Successful completion of a two-day tested course relating to complex properties. The course should include discussion on complex properties, 4) complete a minimum 4-hour course relating to Scope of Work; 5) If Mr. Raynor takes a 30-hour course the Board would waive the \$750 fine and 6) Submit a log of appraisals over the next 12 months following completion of the education. The Board may select up to two reports for independent review for compliance with USPAP. Brock DesLauriers seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 217-167: Jeff Lee was present for discussion. The complainant alleges: 1) Mr. Lee modified the report without the request of the Client (Lender), 2) the appraiser did not adequately explain the reasoning for adjustments and 3) the appraiser did not reconcile his opinion of market value.

Discussion took place. The Board members agreed with the allegations: 1) there was no support for adjustments in the report or work file, 2) Mr. Lee made inappropriate contact with the borrower, modifying the report without the request of the Client, 3) Mr. Lee provided no reconciliation for his opinion of value. In addition, when 3 additional acres are added to a report it would be considered a new appraisal, not an update. With that being said, Mr. Lee did not provide any indication of prior services in the report.

Kathy Maier moved to table the allegation and request a field review. Tim Timian seconded the motion. Brock DesLauriers, Tim Timian, Corey Kost, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 217-168: Gregory Smith was not present for discussion. The complainant alleges Mr. Smith lacks professionalism and has bias towards Verity Homes, leading to Mr. Smith's undervaluing of the complainant's property. Mr. Smith has provided written comment that disputes these allegations. Discussion took place. Some of the facts presented include:

- The property was appraised for \$485,525 by another appraiser on 8/25/16.
- The home was purchased with lot for \$398,571 on 9/19/16.
- Mr. Smith appraised the property for \$407,000 on 2/25/17.

In comparing appraisals:

8/26/16 Appraisal (Mr., D. Scott Miller):

- All lot sales used were waterfront sales with fully functional water access: including dock availability
- Valued lot at \$100,000 (purchased for \$60,000)
- Appraisal indicated navigable water frontage/subject has 60' of water frontage but a barrier retaining wall appears to limit functional use

2/25/17 Appraisal (Mr. Smith):

- Comparable selections used were not waterfront properties
- Valued lot at \$70,000
- Appraisal indicated subject does not appear to have water access from property. the lot does have a view of the boat marina area.

In review of all the information presented, the Board found there were issues with the 8/26/16 appraisal: 1)the comparable sales and site description may be misleading as the lot does not appear to have fully functional water access; 2) the appraiser did not analyze the sale of the subject lot which sold in July of 2015; 3) furthermore, the appraiser did not appear to consider the recent and/or pending lease-purchase agreement of the subject property as improved.

Tim Timian made a motion to move forward with a field review. Kathy Maier seconded the motion. Discussion took place. The Board determined that the issues found in the appraisal completed by Greg Smith did not rise to the level of a complaint. Mr. Timian withdrew his motion.

Kathy Maier moved to dismiss the allegations against Mr. Smith, based on the fact that the appraisal completed by Mr. Smith appeared to be USPAP compliant. Furthermore, the alleged lack of professionalism does not rise to the level of a complaint. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Corey Kost, Brock DesLauriers, and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried. The Board directed Staff to encourage Mr. Smith to work towards maintaining professionalism.

Corey Kost moved to open an investigation against Mr. D. Scott Miller, the appraiser who completed the 8/26/16 appraisal. The allegations include improper selection of comparables, misleading site description and the lease- purchase agreement that does not appear to have been analyzed. Brock DesLauriers seconded the motion. Brock DesLauriers, Corey Kost, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 217-169: Benjamin Mendez was online for discussion. A number of issues were addressed in the allegations: 1) the complainant questioned why the appraiser is allowed to do an appraisal for the same buyer in less than 3 years; 2) the appraisal fee was too high based on research of other states; 3) one of the photos submitted with the report was of a different home; 4) various (alleged) errors were noted: Mileage of the location of the property from Williston; neighborhood description indicates subject is located in an area of average quality homes; garage count is in error; special energy items were not noted in appraisal; and 5) the complainant questioned the comparables used. The culmination issues/errors brought in a low appraisal.

In his response, Mr. Mendez admitted one of the photos was the wrong photo and the mileage stated was in error; he indicated the fee was approved by the AMC/lender; and he provided an explanation relative to the 2-car garage count and indicated he should have provided additional comment in the appraisal to clarify his conclusion.

Discussion took place. The complainant does not appear to understand "3-year disclosure". Board members had no comment relative to the appraisal fee. Additional comment in the report on the choice of comparables could have assisted the reader in understanding why the appraiser chose those particular comparables.

After review and discussion of all the information provided, the Board determined there did not appear to be collusion between the buyer and the appraiser; the appraiser fully addressed the allegations. Based on the information received and reviewed, the Board determined no further action was required. Kathy Maier made a motion to dismiss the allegations. Brock DesLauriers seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 217-171: David Aaland was present for discussion. The complainant alleges lack of professionalism and questions the appraiser's policy in requiring someone to accompany him when inspecting a rental unit. Board members reviewed the allegations and response. Discussion took place. In his written response and his discussion with the Board, Mr. Aaland detailed a timeline of the events. He further explained he has had a business policy in place for years requiring someone to accompany him when completing tenant-occupied rental property inspection. The Board was in agreement this business policy is appropriate.

After review and discussion of all the information provided, the Board determined the appraiser fully addressed the allegations. Based on the information received and reviewed, the Board determined no further action was required. Brock DesLauriers made a motion to dismiss the allegations. Tim Timian seconded the motion. Brock DesLauriers, Corey Kost, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried. The Board cautioned Mr. Aaland to strive towards professionalism when working in stressful situations.

Case 217-170: Allegations have been filed with the Board against Mark Thelen. There does not appear to be enough information from the complainant to move forward with an investigation. Currently, the Board has three pending Cases against Mr. Thelen that have been moved to administrative hearing. Therefore, the Board decided to table Case 217-170.

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

Finances: Staff submitted the current income and expense report. After review and discussion, Tim Timian moved for approval. Brock DesLauriers seconded the motion. Tim Timian, Kathy Maier, Corey Kost, Brock DesLauriers, and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Other Business: Upcoming Board meetings: June 26 Teleconference call, August 8 and September 18th face-to-face in Bismarck.

Proposed AMC Rules: Edward provided an update on the rulemaking process. The Public Hearing is scheduled for July 14, the two-week comment period ends July 28th. The Board will review the comments and finalize approval of the rules. The rules are then forwarded to the Attorney General's office for legality and on to the Administrative Rules Committee for final approval.

Review Process: The Board is in the process of redefining the Review-Investigative process. Corey Kost has drafted a review form; the Board is looking for a standardized, more user-friendly form for reviewers, board members, Staff, legal, as well as the appraisers being reviewed. The process itself was discussed, including the hiring of a Staff Reviewer, as well as revising the general investigative/review procedure.

Chairman Lanpher called for adjournment.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary