

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes – August 6, 2021 – 9:00AM CT
Board Zoom/Teleconference Call Meeting

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

Board Members present online: Chairperson Timian, Corey Kost, Matt Schlenvogt, Brock DesLauriers, and Joe Sheehan

Staff Present: Jodie Campbell and David Campbell

Investigative Reviewer: Joe Ibach

Legal Counsel: Allyson Hicks

Minutes: Board members reviewed the minutes of July 12, 2021. Brock DesLauriers moved for approval of the minutes with corrections noted. Joe Sheehan seconded the motion. Chairman Timian called for the vote. Corey Kost, Brock DesLauriers, Matt Schlenvogt, Joe Sheehan, and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants: Neal_Hilston is making application for certified general via reciprocity with Wyoming. Board members reviewed the application and found Mr. Hilston met the requirements for certification via reciprocity.

Corey Kost moved to approve Neal Hilston for certified general. Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Matt Schlenvogt, Corey Kost, Joe Sheehan, Brock DesLauriers, and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Investigator/Reviewer Panel Member: Joe Ibach, Board Investigator/Reviewer is requesting approval to add Kathy Maier to the Investigator/Reviewer Panel. Panel members assist the Board Investigative Reviewer in work product reviews and the investigation process.

Matt Schlenvogt moved to approve Kathy Maier as Board Investigator/Reviewer Panel Member. Brock DesLauriers seconded the motion. Chairman Timian called for the vote. Matt Schlenvogt, Corey Kost, Joe Sheehan, Brock DesLauriers, and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Executive Session Discussion:

- Current Board policy is to discuss allegations in open session, moving into executive session only when confidential records need to be discussed. Other proposed options to consider:
 - If the investigative report finds there is no substance to the allegation, the Board moves discussion to executive session.
 - The Board discusses all allegations in executive session. If an allegation rises to the level of a complaint further discussion and decisions of discipline take place in open session.
- Executive session is not to determine a penalty.
 - Decisions of disciplinary action must be addressed in open session.
 - Executive session allows board members to openly discuss the issue at hand.
- Board members questioned how a proposed change to executive sessions would affect open records and of executive session? Legal Counsel explained:
 - These are exempt records, not confidential records. Therefore, it is not required that the Board go into executive session; the Board has the option to do so.
- Executive session must be recorded. This recording is considered an exempt record. If someone requests a copy of an exempt record it is at the discretion of the board whether to provide it. To avoid perception of bias, Legal Counsel encouraged the Board to set policy. Board members questioned the procedure should the agenda include both allegations and complaints.
 - Executive session is set as a line item to discuss allegations.

- Complaints are set as a separate line item.
 - Board members address all allegations in one executive session.
 - Board Chairman closes the executive session.
 - Board members discuss the facts of the allegations and make their determinations in open session.
 - Complaints follow the Executive Session.
 - Allegations that were found to rise to the level of a complaint are discussed in open public session.
- Screening panels:
 - The panel decides whether an allegation is escalated, Legal Counsel advised the Board that a law change may be required if the Board were to utilize a screening/investigative panel.
 - The Board's most recent change in policy to utilize a Board Investigative/Reviewer is similar to a screening panel. The investigative report addresses areas of noncompliance (if any) and provides a recommendation to the Board.
- Transparency:
 - Board should consider the perception of lack of transparency.
 - It may be good for the public to hear how the Board handles allegation.
 - As an appraiser who has an allegation filed against him/her, he/she may want to hear Board discussion.
 - On the other hand, if it is a frivolous allegation the appraiser may not want the discussion addressed in open session. Addressing them in executive session would protect the reputation of the appraiser being complained upon.
 - Previous discussion suggested the use of a screening panel. The screening panel investigates and brings an investigative determination to the Board. A question was raised as to where the transparency is in that process.

Corey Kost made a motion to keep the existing executive session process in place. Chairman Timian called for a second to the motion. The motion died for lack of a second.

Corey Kost made a motion to reach out to the ND appraiser associations, outlining the executive session options the Board has been discussing and offer them the opportunity to share their opinions on the current and proposed executive session process. Further discussion took place. Corey clarified that this request is to be directed to the ND appraiser associations. This is not in any way giving them the authority to make Board policy.

Chairman Timian called for second. Matt Schlenvogt seconded the motion

Discussion continued. The question was raised as to whether the Board should extend the offer for comment to all appraisers versus just the organizations.

Corey Kost moved to amend his motion to direct the letter to the leadership of the ND Appraiser organizations but forward the correspondence to all ND appraisers for comment. All comments must be in writing. Matt Schlenvogt seconded the motion as amended. Chairman Timian called for the vote. Matt Schlenvogt, Corey Kost and Brock DesLauriers voted yes to the motion. Joe Sheehan and Tim Timian voted no. Motion carried.

NDAAs Summit: The NDAA has extended an invitation for Board members and Staff to attend the NDAA Summit, Medora on August 26-27, 2021. Staff was to check if members could attend via zoom.

Future Board Meetings: The next meeting is scheduled for August 31, 2021, 9:00am via Zoom.

Chairman Timian called for adjournment. Meeting adjourned.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary