

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Zoom/Teleconference call Meeting Minutes – January 13, 2023

Chairperson Kost called the meeting to order at 1:00pm. Roll call was taken.

Board Members present online: Chairman Corey Kost, Vice Chair Matt Schlenvogt, Brock DesLauriers, Nikki Mertz, and Joe Sheehan

Staff Present: Jodie Campbell and David Campbell

Legal Counsel: Joshua Amundson

Minutes: Board members reviewed the minutes of October 25, 2022. Brock DesLauriers moved for approval of the minutes. Matt Schlenvogt seconded the motion. Chairman Kost called for the vote. Brock DesLauriers, Nikki Mertz, Matt Schlenvogt, Joe Sheehan and Corey Kost all voted yes to the motion. Motion carried.

Investigations:

Cases 218-186 and Case 218-187: As in past meetings, Chairman Kost is recused from discussion and voting on the Weber Cases 218-186 and 218-187 due to a conflict of interest. For that reason, Chairman Kost turned the meeting over to Vice Chair Matt Schlenvogt.

Vice Chair Schlenvogt provided a brief recap of the status of the Weber Cases. Legal Counsel Hicks drafted the Weber Order based on the Board's recommendations from the meeting of October 25, 2022. The Board is meeting today to review and finalize the Order.

Ron McClean stated his objection to today's procedure, indicating he has a right to a hearing where he can exam witnesses and present evidence.

Board Legal Counsel Josh Amundson clarified that this is the Order from Administrative Hearing. If the Weber's disagree with the final Order there is an appeal process they can go through.

Discussion began. Board members were in agreement the Order should state facts. The following changes to the Order:

Page 1, clarify that Joe Ibach did not retire from the Board, his term on the Board expired.

Page 1, last sentence reads "*Ibach and Jerome are business competitors*". Revise to read "*Ibach and Jerome are certified general appraisers in the state of North Dakota....*"

Page 3 #6. Strike sentences 4 and 5 "*That is where the research begins and the rest of the data and scope is created from there. It provides the foundation for the market value and everything else follows.*" In addition, strike sentence 7 "*This is not a minor violation; instead, this is a bedrock principle of any appraisal report.*"

#7 continues on Page 4. Under #7, Strike "*It can be easily inferred that he did not physically inspect the property.*" Revise the last sentence to read "*However, this is a technical violation.*"

Page 6, #4, corrective education for Jerome Weber: Revise the number of required hours to 30 hours for the Sales Comparison Approach course, as well as 30 hours for the Highest and Best Use course Courses should be specific to the certified general appraiser. Strike d. "*The Appraisal Foundation corrective course "Report Writing and Form Filling."*

Page 8 #4. Kelly Weber. Revise the hours for the Sales Comparison Approach course to 30 hours. Course should be specific to the certified general appraiser. Strike d. "*The Appraisal Foundation corrective course "Report Writing and Form Filling."*

Board members were in agreement that education should be completed prior to the start of the probationary period. Revise the Order as follows:

- Jerome Weber: 90-day suspension. All remedial coursework must be completed prior to the end of the 90-day suspension period. If the education is not completed by the end of the 90-day suspension period, suspension continues until all coursework is completed.
- Kelly Weber: 60-day suspension. All remedial coursework must be completed prior to the end of the 60-day suspension period. If the education is not completed by the end of the 60-day suspension period, suspension continues until all coursework is completed.

Board members were in agreement to revise the fines from a percentage base to a specified dollar amount. The Weber's will be required to compensate the Board for 50% of costs the Board incurred from these Cases. Board members were in agreement to set the fines as follows:

- Jerome Weber: \$20,000 fine to be paid by the end of probation, or 24 months, whichever comes first.
- Kelly Weber: \$15,000 fine to be paid by the end of probation or 24 months, whichever comes first.

Carry over the respective education, fines, and time frame revisions to pages 9-11.

Discussion concluded. Vice Chair Schlenvogt recapped the Board recommendations and called for a motion.

Brock DesLauriers moved to approve the recommendations as discussed by the Board and recapped by Vice Chair Schlenvogt. Nikki Mertz seconded the motion. Vice Chair Schlenvogt called for further discussion. Hearing no discussion, Vice Chair Schlenvogt called for the vote. Nikki Mertz, Joe Sheehan, Brock DesLauriers, and Matt Schlenvogt all voted yes to the motion. Corey Kost abstained from voting. The motion carried.

Vice Chair Schlenvogt turned the meeting over to Chairman Kost.

Update on Legislation:

Chairman Kost provided a brief update on the Board's proposed legislation, HB1106 (AMC Statute) and HB1107 (Appraiser Statute). The hearings for both Bills were on January 4, 2023, in front of the House Industry, Business and Labor Committee. Chairman Kost provided testimony on behalf of the Board.

Prior to the hearing on HB 1106 REVAA, an AMC association, noted concerns with the Board's proposed legislation. Chairman Kost and representatives from REVAA were in discussion to address these concerns. Both parties appeared to agree on new verbiage to move forward with the proposed legislation. However, REVAA reconsidered their position and opposed the Bill.

The Committee closed the hearing on 1106. It will be rescheduled and reopened for testimony at a later date. The Committee held HB 1107 and closed the hearing.

A second hearing was held on January 11th. Again, no formal action was taken. Both HB 1106 and HB 1107 were assigned to a Subcommittee to work with the stakeholders in resolving concerns between all parties.

Board discussion took place. Points of discussion included:

- HB 1106: The proposed amendments in HB 1106 require out-of-state appraisers performing reviews on appraisals completed on ND properties to hold a ND permit.
- Define appraisal review to clarify that while out-of-state appraisers performing a Standard 3 appraisal review must hold a ND permit, out-of-state appraisers performing an examination review (checklist) would not be required to hold a permit.

Discussion turned to HB 1107 and credentialed appraisers completing evaluations.

- Allowing a credentialed appraiser to complete evaluations could further contribute to the scarcity of appraisers in ND. ND already has a limited number of appraisers. If the appraisers turn their attention to completing evaluations, this could amplify the scarcity that already exists in the rural areas.
- It was explained that when interest rates are low there is an increase in the demand for appraisals due to a jump in purchasing or refinancing. Anything that is sold to the secondary market requires an appraisal. However, when interest rates are high the demand for evaluations increases as homeowners look to home equity loans or a line of credit to remodel rather than purchase or refinance.
- Rural appraisers are among the first and the hardest hit in the appraisal slowdown. Allowing credentialed appraisers complete evaluations could help offset some of their income loss.

- The Board discussed whether they would be creating barriers by not allowing credentialed appraisers to complete evaluations. Allowing credential appraisers to complete evaluations could be an avenue for the apprentice to learn the trade.
- The Board discussed public trust, specifically the concern that a consumer would probably not be able to identify the difference between an evaluation and an appraisal.
- When an employee completes an evaluation for an employer (lender) the employer (lender) has control over the evaluation, as the employer (lender) has internal protections and control system procedures in place.
- Discussion concluded. The Board was split in allowing credentialed appraisers to complete evaluations.

Matt Schlenvogt made a motion to give Board Chair the authority to negotiate on behalf of the Board in accomplishing the Board's four primary objectives:

- Consistency in the appraiser and AMC Statute and Rules.
- Maintain a local avenue of recourse for any appraisal or appraisal review completed on a property in North Dakota.
- Create clarity between an appraisal review and an appraisal examination.
- When defining appraisal review, the definition should not be limited to review of the value.

Joe Sheehan seconded the motion. Chairman Kost called for discussion. No further discussion took place. Chairman Kost called for the vote. Nikki Mertz, Brock DesLauriers, Joe Sheehan, Brock DesLauriers and Corey Kost all voted yes to the motion. The vote was unanimous. Motion carried.

Chairman Kost adjourned the meeting at 3:44pm.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary