

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Zoom/Teleconference call Meeting Minutes – November 4, 2022

Chairperson Kost called the meeting to order at 9:01 AM. Roll call was taken.

Board Members present online: Chairperson Corey Kost, Nikki Mertz, Matt Schlenvogt and Joe Sheehan

Board Members absent: Brock DesLauriers

Staff Present: Jodie Campbell and David Campbell

Investigative Reviewer: Joe Ibach

Applicant: Timothy Kunick is making application for certified residential. Mr. Kunick meets the education and experience hour requirements for certification. Work product was submitted and reviewed for compliance with USPAP. Joe Ibach, Investigative Reviewer provided an overview of the reviews. Discussion took place. The Board determined Mr. Kunick's work product was found to meet the minimum standards set forth in USPAP. Based on Mr. Kunick meeting the education and experience requirements for certified residential, Joe Sheehan moved to approve Timothy Kunick to sit for the national certified residential examination; upon successful completion of the examination, Tim Kunick will meet all the requirements to hold a certified residential permit. Matt Schlenvogt seconded the motion. Chairman Kost called for the vote. Nikki Mertz, Joe Sheehan, Matt Schlenvogt and Corey Kost all voted yes. Motion carried.

Proposed Amendments to Rules: A hearing was held October 17, 2022, on the Proposed Amendments to Appraiser (Title 101), no written or oral comments were received. Chairman Kost called for the vote to approve Rules as presented. Joe Sheehan moved for approval. Matt Schlenvogt seconded the motion. Chairman Kost called for the vote. Joe Sheehan, Matt Schlenvogt, Nikki Mertz and Corey Kost all voted yes to the motion. Motion carried.

Proposed Amendments to Statute: A number of proposed amendments have been discussed at previous meetings. A detailed discussion continued:

43-23.3-0.16: Remove "modified" from the first sentence as the Board cannot modify USPAP. Remove the last sentence as it appears to be redundant.

43-23.3-02.1: The Board members discussed increasing the size of the Board but ultimately decided the use of "subject matter experts" would be more effective. No change was made.

43-23.3-02.3: The paragraph appears to address three separate concepts. Therefore, a breakdown of the paragraph is recommended as follows:

3. Annually the members shall elect a chairman from among the members.
4. At least two of the members who are appraiser members must be present in order for a quorum to exist.
5. The members are entitled to receive compensation for each day actually engaged in the service of the board and actual and necessary traveling expenses at the rate allowed other state officials, paid from the fees collected by the board.

43-32.3-03.1.b: Add "apprentice" and "supervisory appraiser". Both the apprentice and supervisory appraiser must complete an open-book examination covering ND Appraiser Rules and Statute as part of the application process for apprentice.

43-32.3-03.1.e: Check with legal counsel to determine if changes should be made relative to removing "hearings" and "examinations". Testing companies coordinate the national exam with the applicant versus the Board, relative to hearings, the administrative hearings office schedules hearings.

43-23.3-4: To help clarify AG's Opinion 2019-L-04, add language "value or as". The sentence should read... "However, the opinion as to the listing price or the purchase price may not be referred to as value or as an appraisal."

The Board discussed evaluations. Board members were in agreement to allow credentialed appraisers to complete evaluations for their lender-employer. These evaluations would be not required to be USPAP compliant. Language will have to be drafted.

Discussion turned to out-of-state appraisers completing reviews on appraisals completed on ND properties. As ND Law currently reads, an out-of-state appraiser completing appraisals in ND must hold a ND permit. However, it is unclear if the out-of-state appraiser is required to hold a ND permit to complete an appraisal review on a ND property. The Board members were in agreement to require an out-of-state appraiser hold a ND permit when completing reviews on ND property. Language will have to be drafted. The Board was uncertain as to where this requirement should be placed in the Statute.

43-23.3-07: Revise language to reference the AQB examination criteria and remove all language listed in numbers 1-6.

43-23.3-08: Revise the title to read “Appraisal education requirement.”

43-23.3-09: Add “requirement” to the title. Remove the last sentence and reference the AQB experience requirements.

43-23.3-10. Continuing education is required every two years. Revise the appraiser permit renewal period to a two-year cycle, mirroring the appraiser’s two-year continuing education cycle. Review budget at a later date to address fees.

43-23.3-13: Remove “and pay the change of address fee”

43-23.3-17: Remove current language. Draft language to reference USPAP.

Discussion turned to gaining experience hours as an individual who does not hold a ND apprentice permit. The “carve-out” in Statute reads “*This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person’s employer.*”

Scenario 1) an unlicensed individual is recognized as providing significant appraisal assistance in an appraisal. The appraisal report is signed by a credentialed appraiser, the two parties have an employee/employer relationship. Would this experience be accepted by the Board?

Scenario 2) an unlicensed individual is recognized as providing significant appraisal assistance in an appraisal. The appraisal report is signed by a credentialed appraiser, but the two parties do not have an employer-employee relationship. Would this experience be accepted by the Board?

Based on the “carve-out” language in the Statute, Board members were in agreement experience gained through Scenario 1 would qualify.

However, experience gained through Scenario 2 would be not acceptable, as the individual would be in violation of State law by performing appraisal services for an individual who is not his/her employer.

Further discussion on the proposed amendments to Statute will take place with Legal Counsel at the November 10th meeting.

Chairman Kost adjourned the meeting at 10:29 AM.

Respectfully submitted,

Jodie R. Campbell
Executive Secretary