NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

April 13, 2015 - MINUTES
Holiday Inn, Fargo ND

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

Board Members present:	Chairperson Joseph Ibach	Tim Timian
	Kathy Maier	Brock DesLauriers
	David Lanpher	
Staff Present:	Edward Erickson, Legal Counsel	Jodie Campbell
		David Campbell
Others Present:	W. Gordon Christianson	Jeff Gast
	Ted Whitmer	Kathy Berry
	Beth Keller	Kim Vachal
	Reed Danuser	Mark Thelen
	Kyle Nelson	Tiffiney Dick
	Brent Qualey	Sara Lang
	William Kirschner	
Others Present Online:	Kurt Kielisch	Eric Oberg
	Leah Reynolds	Robert Gietzen

Public Comment Period: No comments

Inv 214-133: In a letter dated December 31, 2014, Mr. William Kirschner, legal counsel for Mr. Kurt Kielisch requested the investigation relating to Mr. Kielisch (Inv 214-133) be turned over to the Wisconsin authorities. At the meeting of January 23, 2015, Board members declined the request.

Mr. Kirschner was in attendance to address the Board on behalf of Mr. Kielisch. Mr. Kirschner requested the Board reconsider the Board's decision to proceed with an investigation and turn the matter over to the Wisconsin Board. Mr. Kielisch was present via teleconference call. Discussion took place. Mr. Kirschner and Mr. Kielisch: 1) reiterated the fact that Mr. Kielisch currently resides and holds a certified general permit in Wisconsin and does not hold a long-term license in ND; 2) had concerns with the qualifications of Ms. Lynne Heiden, Board Investigator; 3) had concerns with the appearance of bias because Mr. Kielisch is an out-of-state appraiser and 4) were concerned that neither (Mr. Kirschner or Mr. Kielisch) were provided the opportunity to address the Board at the Board meeting of January 23 (other than through their letter of December 31).

Chairperson Ibach reiterated the fact the appraisal completed was that of a ND property, completed by a ND certified appraiser. Therefore, ND has primary jurisdiction. Relative to the concern with the qualifications of Reviewer, that is a Board/Staff decision.

Board members were in agreement to proceed with the investigation. The Wisconsin Board will be notified of the Board's decision. As a matter of courtesy, Staff will provide Mr. Kirschner/Mr. Kielisch with the qualifications of the Board Reviewer.

Minutes: Board members reviewed the minutes of February 23, 2015. Corrections were noted. Dave Lanpher moved to approve the minutes as corrected. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Educational Review: As part of the Board's educational review process, an independent review was completed on a report submitted by Reed Danuser (LA level). Board members discussed the review with Mr. Danuser. The Board encouraged Mr. Danuser to utilize the review, as well as Board member comments, to assist in completing future reports.

Applications: Allen Leirness is making application for certified general via reciprocity with Minnesota. Board members reviewed Mr. Leirness's application. Dave Lanpher moved to approve Allen Leirness for certified general. Brock DesLauriers seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Mark Williams is making application for certified general via reciprocity with Michigan. Board members reviewed Mr. William's application. Kathy Maier moved to approve Mark Williams for certified general. Dave Lanpher seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Dale Weston is making application for certified general and was present for discussion. Review of Mr. Weston's application indicates he meets the education and experience hour requirements for certified general. Based on review of work product, the Board determined that Mr. Weston has demonstrated a working knowledge for the certified general level. Tim Timian moved to approve Dale Weston for certified general. Kathy Maier seconded the motion. Brock DesLauriers, Tim Timian, Kathy Maier, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Kim Vachal is making application for certified general and was present for discussion. Review of Ms. Vachal's application indicates she meets the education, exam and experience hour requirements for certified general. Reports were reviewed by an independent reviewer. The reviews indicated areas of concern. Discussion took place. Some of the concerns discussed included: 1) comparable sales do not reflect what is being appraised, 2) sales history is not addressed, 3) definition of market value is inconsistent throughout the report, 4) lack of market support for the cap rate, 5) lack of support for depreciation, 6) city and neighborhood description should be more specific and descriptive, 7) question whether the user of the report could understand land value without access to the appraiser's workfile, 8) cost approach/zoning issues and 9) adjustments lack explanation. Board members encouraged Ms. Vachal to provide better explanation throughout the reports, research and confirm comparable data, and identify the appraisal objective and intended user in every report.

Based on review of work product and discussion with Ms. Vachal, the reports submitted do not appear to meet the minimum standards of USPAP. Kathy Maier moved to table Kim Vachal's application for certified general. Ms. Vachal must submit one additional report for review for compliance with USPAP. The report must be completed after the date of this meeting and include all three approaches to value. Tim Timian seconded the motion. Brock DesLauriers, Tim Timian, Kathy Maier, Dave Lanpher and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Supervisory Issues: At the meeting of February 23rd, the Board requested Gregory Smith, supervisory appraiser to Mr. Derek Mosset, address a written response to issues noted in two reports submitted by Mr. Mosset as part of his application process for upgrade to certified residential. Mr. Smith provided a written response and was present online for discussion.

Mr. Smith stated that he was unaware of the fact that Mr. Mosset submitted reports for review. He also indicated that he had only signed two of the three reports submitted by Mr. Mosset. He had not signed the report that was of major concern. The two reports signed by Mr. Smith as supervisory have some issues, however, they appear to meet the minimum requirements of USPAP.

Board members were satisfied with Mr. Smith's response to the reviews. Dave Lanpher made a motion to not move forward with filing a formal complaint. Kathy Maier seconded the motion. Tim Timian, Kathy Maier, Dave Lanpher, Brock DesLauriers, and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Finances: Staff submitted the 2014 year-end financial report and current income and expense report. After review and discussion, Tim Timian moved for approval. Kathy Maier seconded the motion. Tim Timian, Kathy Maier, Dave Lanpher, Brock DesLauriers, and Joe Ibach all voted yes to the motion. The vote was unanimous. Motion carried.

Investigations:

Inv 213-128: This investigation involves two appraisals, with significant differences, completed by two appraisers, on the same property. However, the actual complaint filed was against one of the appraisers, Ms. Beth Keller (Appraiser B).

At the meeting of December 5, 2013, the Board reviewed the complaint and response provided by Ms. Keller and determined there was sufficient evidence and concern to warrant a field review. The field review was to include both reports; Beth Keller (Appraiser B) and Jeff Gast (Appraiser A). A field review

was completed, both appraisers were provided a copy of the review specific to their appraisal and given the opportunity to address any concerns noted in the review. All of this information was provided to the Board for review.

A detailed discussion took place. Both appraisers were in attendance for discussion. However, Mr. Gast left the room while the Board discussed Ms. Keller's appraisal with her. Ms. Keller clarified that her assignment was through the property owners. She indicated her scope of work was to complete the appraisal under the hypothetical condition that flood conditions did not exist. She indicated she received verbal approval from a city representative.

The Board found that the primary weakness/major area of concern with Ms. Keller's appraisal was the selection of comparables. None of the comparables she used were located in the floodplain. Ms. Keller provided a detailed explanation of her selection of comparables. Board members and Ms. Keller were in agreement that a more detailed explanation of comparable sales should have been included in the report.

Based on Ms. Keller's written responses and discussion with the Board, Tim Timian moved to dismiss the complaint. Dave Lanpher 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.

Ms. Keller left the room and Jeff Gast returned for discussion. Board members questioned Mr. Gast why he had two appraisals on the same property, with two different values. Mr. Gast explained this was an error, the second report should have never been sent out. Board members were also concerned with his reporting of the highest and best. Mr. Gast provided a detailed explanation. Discussion then moved to the scope of work. It appears the scope of work was changed mid-stream. As with Ms. Keller, this was through verbal communication with a city representative. With no written communication, the Board reviewer was not aware of this information.

Board members were in agreement that the scope of work was one of the main issues. It does not appear that either party had a clear understanding of the scope of work. With information being communicated verbally, separate conversations may have been interpreted differently.

Based on Mr. Gast's written responses and discussion with the Board, Tim Timian made a motion to not move forward with a complaint. Dave Lanpher 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.

Discussion turned to revising the Board's investigative process. Dave Lanpher moved to inform the parties in question when the Board is initiating an investigation (ex. The Board has determined a field review is in order). 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.

Inv 215-150AN: A report, with correspondence detailing allegations, was received into the Board office. The information was provided by an anonymous source. Board members reviewed the information provided. Discussion took place. Board members were in agreement the allegations had merit and further review is required.

Dave Lanpher made a motion to move forward with an investigation. Brock DesLauriers seconded the motion. Dave Lanpher, Tim Timian, Brock DesLauriers, Kathy Maier and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Tim Timian made a motion to move forward with a field review. Dave Lanpher seconded the motion. Dave Lanpher, Tim Timian, Brock DesLauriers, Kathy Maier and Joe Ibach voted yes to the motion. The motion was unanimous. Motion carried.

Edward Erickson, legal counsel for the Board provided an update on correspondence received and pending offers to settle. Mr. Erickson requested the Board give him the authority to negotiate an offer to settle with Vince Salzer.

Discussion took place relating to revising the investigative process either through the use of a peer review committee or hiring a full time investigator. Staff was directed to review other State's procedures.

Other Business:

AARO Conference: Staff, Brock DesLauriers and Chairman Ibach will be attending the Appraisal Practices Board meeting on April 30th and the Spring State Regulator Conference May 1-3 in Nashville.

Board meetings: The next quarterly meeting is scheduled for June 8th in Minot. Additional face-to-face meetings were set for September 21st in Bismarck and November 30th in Fargo.

Chairperson Ibach called for adjournment at 3:16pm.

Respectfully submitted,

Jodie R. Campbell, Executive Secretary