

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes – July 12, 2021 – 9:00AM CT
Board Meeting

Chairperson Timian called the meeting to order at 9:03 AM. Roll call was taken.

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

Staff Present: Jodie Campbell and David Campbell

Legal Counsel: Allyson Hicks

Public Comment Period: Chairman Timian announced the death of Dave Lanpher, past Board member and Chair. Chairman Tim Timian, Board members and Staff paid their respects to Dave.

Applicants:

Corey Burgum: At the meeting of September 21, 2020, the Board moved to offer Mr. Burgum a conditional licensed appraiser permit. Prior to receiving an unrestricted licensed permit Mr. Burgum must: 1) complete a minimum 4-hour course on summarizing and analyzing adjustments and 2) submit a log of appraisals completed after the required course. One report would be selected from the log for review for compliance with USPAP by the Board Reviewer. The report must be found to meet the minimum requirements of USPAP.

Mr. Burgum signed the conditional approval agreement, completed the required course, and submitted the selected report. Review of the report indicated minimum compliance with USPAP. Board members were in agreement that Mr. Burgum met the conditions of the agreement.

Matt Schlenvogt made a motion to remove the “conditional approval” restriction from Corey Burgum’s licensed permit. Corey Kost seconded the motion. Chairman Timian called for the vote. Matt Schlenvogt, Corey Kost, Joe Sheehan, Brock DesLauriers, and Tim Timian voted yes to the motion. The vote was unanimous. Motion carried.

Investigations:

Case 220-195: At the meeting of February 15, 2021, the Board noted concerns with the appraiser’s (Nancy Schmidt) failure to properly address the view amenity in her appraisal report. In addition, the Board found concerns with lack of adjustments, lack of reasoning and support, and failure to recognize seller paid concessions. The Board passed a motion to have a Standard 3 field review completed.

Joe Ibach, Investigative Review Appraiser completed the requested field review. In his review, Mr. Ibach confirmed: 1) the appraiser did not recognize the view amenity of the subject property, further commenting that this amenity creates a value enhancement in the local market, 2) the appraisal lacked support for the concluded market value, and 2) the sales comparison approach did not provide appropriate support for sales concession and GLA adjustments. Furthermore, the appraiser did not provide an appropriate verification source (a requirement by Fannie Mae and FHA).

Staff confirmed that Ms. Schmidt retired from the profession in September of 2020 and currently does not hold an active appraiser license.

Based on the information provided, Corey Kost moved to offer Nancy Schmidt a conditional dismissal. If, at any point in time, Ms. Schmidt reapplies for an appraiser license in North Dakota she will be required to:

- 1) complete a 4-hour course on “Thinking outside the Form”, or some similar course and
- 2) pay a \$500 fine.

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

Applicants Issued Permits via Reciprocity-Require Board Confirmation: The following applicants 1) have met the requirements for certification, 2) were issued a permit for their respective levels and 3) require Board confirmation:

- **Certified General:** Brittany A. Lindahl and Reagan R. Schwarlose

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

Executive Session Discussion: Allyson Hicks, Board Legal Counsel, provided a brief review of NDCC 43-23.3.03.3:

- 1) The Board has the authority to investigate and gather evidence concerning alleged violations of appraiser laws and rules; and
- 2) The Board's investigative files are exempt records as defined in the open records law. But, a copy of the investigative files must be provided to the licensee after the complaint is filed.

Legal Counsel addressed NDCC 43-23-.3, clarifying that it does not define "investigative file". The allegation and reviewer's investigative report / field review are part of the investigation of the complaint and therefore, would be considered part of the investigative file records. Because the investigative file is exempt, the Board has the authority to go into executive session to discuss the investigative file records. The investigative report typically includes a disciplinary recommendation. Therefore, the allegation, investigative report/review(s) (disciplinary recommendation inclusive), and anything confidential under USPAP may be discussed in executive session.

The Board may discuss all investigations in executive session or move to executive session when confidential records need to be discussed. Ms. Hicks encouraged the Board to set policy to be consistent.

Discussion took place.

Concerns with Board transparency:

- Board transparency is important. Unless there is specific reason to go into executive session remain in open session.
- Open records may be silencing Board members, whereas executive session may generate a more thorough discussion. It is important that Board members have a forum to speak freely when discussing an appraiser's livelihood.

Frivolous Allegations:

- Open discussion regarding allegations that are that have been filed but have no substance may affect an AMC or appraiser's reputation. Therefore, the appraiser or AMC would prefer not to have what they may or may not have correctly done the subject of open conversation. Discussion in executive session could prevent this.
- Legal Counsel explained that the Board has the authority to choose when to move into executive session to discuss exempt records. To protect the appraiser or AMC who may have a frivolous allegation filed against him/her, the Board has the authority to address the allegation in executive session until it is deemed a complaint.

Board Initiated Complaint.

- A question was asked as to whether the investigative file is a public record if the Board initiates the complaint. Legal Counsel clarified that the law does not distinguish between Board generated complaints versus public generated complaints.

Discussion closed and will continue at a following meeting.

Chairman Timian called for adjournment. Meeting adjourned at 9:55 AM.

Respectfully submitted,

Jodie R. Campbell, Executive Secretary