

# NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

Minutes- September 17, 2018  
Board Meeting - La Quinta Inn & Suites, Fargo, ND

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

Board Members present:

Chairperson Tim Timian	Joe Sheehan	Corey Kost
	Kathy Maier	Brock DesLauriers

Staff Present:

Jodie Campbell	David Campbell	Edward Erickson, Legal Counsel
----------------	----------------	--------------------------------

Others Present:

Wade Iverson	Nikki Mertz	Sheila Ressler
Jeff Mangen	Marit Eriksmoen	Kathy Berry
Eric Oberg	Todd Ramage	Kaitlyn Timian
Tim Kreft	Neal Eriksmoen	Dennis Huber
Luke Koterba	Patty Hodenfield	Tonia Dosch
Alex Oestreich	Matt Schlenvogt	Lori Geitzen
Bob Geitzen	Ross Berg	

Others Present Online:

Jared Perry	Keana Schuler	Ben Mendez
-------------	---------------	------------

Dave Lanpher addressed the Board, thanking the members for allowing him to serve as Chair. He talked about his main goal as a board member, and more specific, as Chair, to work for the good of the public. Chair Timian in turn thanked Mr. Lanpher for the many years of service on the Board.

Tim Timian announced the retirement of Edward Erickson, thanking him for his many years in assisting the Board as legal counsel.

**Public Comment Period:** No comments.

**Minutes:** Board members reviewed the minutes of June 28 and the minutes of the morning meeting of September 7 with the Governor's office and the afternoon Board meeting of September 7th.

Corey Kost moved to correct the language under Case 218-180 to read "settlement agreement". Brock DesLauriers seconded the motion. Kathy Maier, Brock DesLauriers, Corey Kost, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Kathy Maier moved for approval of the minutes with corrections noted. Corey Kost seconded the motion. Kathy Maier, Brock DesLauriers, Corey Kost, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Investigations:**

**Inv 214-141:** As part of an Amended Settlement Agreement, Tonia Dosch was required to: 1) complete a 4-hour course on Report Writing versus Forms and 2) submit an experience log for the next 6 months; two reports to be selected for Board review. Ms. Dosch provided verification of completing the required course. Two reports were selected from her log and submitted for Board review.

Discussion took place. Board members found a number of the same issues in the two reports selected for review as in the initial appraisal in question and demonstration report. Some of the issues of concern included: 1) lack of explanation, support, or work file support for adjustments [nothing leads the reader to understand the adjustments]; 2) a weak highest and best use analysis; 3) inconsistent exposure/marketing time, with lack of explanation; 4) no explanation or support for external obsolescence; 4) the sale price is higher than appraised value with little support/explanation for the appraised value. Overall, the reports lacked analysis, reasoning, support and reconciliation. The Board members noted improvement, however, the reports do not appear to meet USPAP Standards.

Based on the Board's findings, Kathy Maier moved to offer a second amendment to Tonia Dosch's Amended Settlement Agreement. The terms to the second amended agreement to include: 1) revise and re-submit the two reports; 2) the reports will be reviewed by an independent reviewer for compliance with USPAP, 3) if the

reports do not meet USPAP Ms. Dosch's license will be revoked. Joe Sheehan seconded the motion to the amendment.

Further discussion took place. Building a consequence into the agreement does not give the Board the option to make a determination. Kathy Maier moved to amend her motion revising the terms of the second amended agreement to include 1) revise and re-submit the 1306 S Thompson report; 2) submit an experience log beginning October 1; 3) one report will be selected from the log. Both reports are to be reviewed by an independent reviewer for compliance with USPAP. Joe Sheehan seconded the motion. Brock DesLauriers, Kathy Maier, Joe Sheehan, Corey Kost and Tim Timian all voted yes to the motion. Motion carried. Board members again encouraged Ms. Dosch to align herself with a mentor.

**Case 218-183:** Allegations have been filed against Mr. Ben Mendez and Mr. Jared Perry. Mr. Mendez and Mr. Perry were online for discussion. An entity ordered a relocation appraisal from two separate appraisers, Jared Perry and Ben Mendez. It is alleged that the appraisals submitted were identical in most aspects. It was found that Mr. Perry's permit number was found on Mr. Mendez's report. Mr. Mendez's report was the second report delivered. The allegations allege violations of ND Appraiser Rules "*Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation*" as well as USPAP Ethics Rule: Conduct and Confidentiality.

Mr. Perry and Mr. Mendez had previously apprenticed together under the same supervising appraiser. In his response, Mr. Mendez acknowledged to having logged into Mr. Perry's vault without authorization, retrieving the report in question. However, Mr. Mendez indicated he re-worked the entire file with data that he, himself, had compiled, with the intent to complete a non-biased appraisal. Mr. Mendez admitted to, and apologized for his lapse in judgment. He further explained there were extenuating circumstances at the time of completing report.

Discussion took place. In addition to the ethical allegations, the Board found USPAP violations with both the Perry and Mendez appraisals. Some of the issues discussed included: 1) no analysis of the contract, 2) referencing UAR, UAD guidelines, when the report was completed for relocation, 3) purpose of the appraisal was not properly stated, 4) lack of explanation for adjustments, and 5) no disclosure of prior services. In addition, Mr. Perry's permit number was listed on Mr. Mendez's report. Furthermore, Mr. Mendez did not acknowledge in the report that Mr. Perry provided significant appraisal assistance.

Discussion turned back to the alleged ethical violations. The Board is charged with preserving and protecting public trust. By accessing Jared Perry's vault without authorization, Mr. Mendez gained entry into confidential information. There are concerns with the seriousness of Mr. Mendez's actions, including concerns of plagiarism, fraud, and theft of property.

Kathy Maier moved to elevate the allegation to a complaint. Brock DesLauriers seconded the motion. Corey Kost, Brock DesLauriers, Kathy Maier, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Kathy Maier moved to revoke Ben Mendez's certified residential permit, effective immediately. Brock DesLauriers seconded the motion. Discussion took place. Mr. Mendez asked for leniency based on extenuating circumstances and no prior disciplinary actions in ND. He further explained this was the only time he has accessed Jared Perry's vault.

Chairman Timian called for a break.

Discussion resumed. Corey Kost commented: 1) the Board cannot ignore that the actions taken by Mr. Mendez were intentional and 2) the Board found a number of issues with the appraisal. Keeping that in mind, there appear to be mitigating circumstances the Board may want to consider: 1) Mr. Mendez has had no previous disciplinary taken in ND, 2) he has been appraising for 18 years with only one disciplinary action taken in Idaho, 3) he appears to understand and has admitted his actions were wrong, and 4) Mr. Mendez indicated he was dealing with personal issues at the time of completing the appraisal. Mr. Kost requested the Board consider alternatives such as suspension, coursework, restitution of fees to client in lieu of revocation.

The Board continued discussion on the seriousness of Mr. Mendez's actions. He retrieved an account without authorization. There are concerns of fraud, theft, and plagiarism. The Board has a job to preserve public trust. Chairman Timian called for the vote. Kathy Maier, Joe Sheehan, Brock DesLauriers and Tim Timian voted yes to the motion to revoke Mr. Mendez's certified residential permit. Corey Kost voted no. Motion carried.

**Case 218-184:** Discussion turned to Jared Perry. In his response, Mr. Perry confirmed 1) he did not provide Mr. Mendez a copy of his appraisal; 2) he did not give, nor has ever given Mr. Mendez permission to access his vault and 3) as soon as he received notification from the Board he changed his password. In further discussion with Mr. Perry, he indicated he was unaware that Mr. Mendez had a copy of his password.

Discussion continued. The Confidentiality section of the Ethics provision of USPAP requires an appraiser take reasonable steps to safeguard access to confidential information, physical or electronic. Mr. Perry has failed to protect his information. In addition, as indicated in as 218-183, the Board found USPAP violations with both the Perry and Mendez appraisals.

Based on concerns with confidentiality and issues found with the appraisal, Corey Kost moved to elevate the allegations against Mr. Perry to a complaint. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Kathy Maier, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Having considered the allegations and response to the allegations, Cory Kost moved to offer Jared Perry a settlement agreement with the following terms: Mr. Perry must complete 1) a course on Appraiser Self Protection: Documentation and Record Keeping and 2) a course on Residential Report Writing vs. Form Filling. Kathy Maier seconded the motion. Kathy Maier, Brock DesLauriers, Joe Sheehan, Corey Kost and Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Case 218-185:** At the meeting of June 28, the Board reviewed a report completed by Dana Schau. The report submitted was part of another investigation. A number of concerns were found in the report and the Board moved forward with filing allegations against Ms. Schau. A letter was forwarded to Ms. Schau outlining the issues and Ms. Schau was requested to respond. Ms. Schau has provided a response.

Discussion took place. In her response, Ms. Schau indicated: 1) regarding the highest and best use concern, she felt she researched the additional lots, and the data that was provided in the appraisal was adequate; 2) she felt the comparables selected were the best indicators of value; 3) her trainee assisted in completing the report and missed addressing the prior sales of the subject; and 4) her trainee completed this section of the report and missed a) not disclosing the seller concessions and b) special assessments on the additional parcels. Ms. Schau further indicated she, as the supervisor, reviewed the report but missed some of the issues noted in the allegations. She will be more thorough in reviewing future appraisals completed by her trainee.

Having considered the allegations and response to the allegations, Corey Kost moved to elevate the allegations to a complaint. Joe Sheehan seconded the motion. Corey Kost, Joe Sheehan, Kathy Maier, Brock DesLauriers and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Corey Kost moved to order an independent review. Kathy Maier seconded the motion. Kathy Maier, Corey Kost, Joe Sheehan, Brock DesLauriers and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Update from legal counsel:** The cases involving Mr. Mark Thelen and Mr. John Hraba are in the Office of Administrative Hearings. There has yet to be a hearing scheduled for either cases.

**Waiver request update:** The Appraisal Subcommittee has reviewed the waiver request submitted by the ND Department of Financial Institutions, ND Bankers Association and Governor Burgum and has responded, requesting the parties provide additional, more current information.

Discussion took place relative to the role of the ND Appraiser Board. The ND Appraiser Board serves at the pleasure of Governor; with a responsibility to protect the public. The role of the Board in this situation is not to advocate for appraisers, but to provide information and maintain appraiser qualifications consistent with the requirements promulgated by the Appraiser Qualifications Board of the Appraisal Foundation and standards as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

**ASC Recommendations to Statute:** As part of the ASC State review, the policy managers review statutes and rules. In review of 43-23.5, the following recommendations were made by the ASC:

- 1) **"43-23.5-07. Exemptions.....An appraisal management company with an appraisal panel of not more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year."**  
ASC recommendation: add the "fewer than" before "twenty-five". It could be read another way, with the thought process that "not more" only modifies "fifteen".

2) **43-23.5-08. Owner Requirements.**

ASC recommends revising language under this section as the requirement that owners have not had an appraiser license refused, denied, cancelled etc. is not limited to 10% as the good moral character is.

3) **43-23.5-12. Appraisal review.**

*Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:*

*A certified or licensed appraiser in good standing in this state.*

*A certified or licensed appraiser in good standing in another state.*

ASC recommendation: Consider adding and/or between 1 and 2 as the colon indicates that an appraiser needs to be both licensed in this state and in another state.

Staff was directed to contact the Board's policy manager to see if these recommendations need to be addressed immediately. If so, Staff, with the assistance of legal counsel, were directed to draft a bill to amend 43-23.5 with these changes for the 2019 Legislative session.

**Applicants:**

Lori Gietzen is making application for certified residential and was present for discussion. Review of Ms. Gietzen's application indicates she meets the education and experience hour requirements for certified residential. Reports were reviewed by an independent reviewer.

Discussion took place. In addition to the issues noted in the review, the Board discussed other concerns including: 1) no statement of prior services in past 3 years; 2) the impact of special assessments on site sales were not considered; 3) there was no analysis of the comparable site sales; and 4) the Board questioned the method used to derive the GRM;

Based on the issues noted in the reviews and the Board's additional concerns, Corey Kost moved to table Ms. Gietzen's application for certified residential and request Ms. Gietzen revise and re-submit the small income producing appraisal to meet USPAP requirements; for Board review. Kathy Maier seconded the motion. Kathy Maier, Brock DesLauriers, Joe Sheehan, Corey Kost and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Patty Hodenfield is making application for certified residential and was present for discussion. Review of Ms. Hodenfield's application indicates she meets the education and experience hour requirements for certified residential. Reports were reviewed by an independent reviewer. Review of Ms. Hodenfield's work product indicates the reports meet the minimum standards set forth in USPAP.

Kathy Maier moved to approve Patty Hodenfield for certified residential. Corey Kost seconded the motion. Corey Kost, Brock DesLauriers, Kathy Maier, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Todd Ramage is making application for certified residential and was present for discussion. Review of Mr. Todd Ramage's application indicates he meets the education and experience hour requirements for certified residential. Reports were reviewed by an independent reviewer. Review of Mr. Ramage's work product indicates the reports meet the minimum standards set forth in USPAP.

Corey Kost moved to approve Todd Ramage for certified residential. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Joe Sheehan, Kathy Maier and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Marit Eriksmoen is making application for certified general and was present for discussion. Review of Ms. Eriksmoen's application indicates she meets the education and experience hour requirements for certified general. Reports were reviewed by an independent reviewer. Review of Ms. Eriksmoen's work product indicates the reports meet the minimum standards set forth in USPAP. Ms. Eriksmoen has demonstrated a working knowledge of all three approaches to value.

Corey Kost moved to approve Marit Eriksmoen for certified general. Brock DesLauriers seconded the motion. Corey Kost, Joe Sheehan, Brock DesLauriers, Kathy Maier and Tim Timian all voted yes to the motion. The vote

was unanimous. Motion carried.

Jeff Mangen is making application for certified general and was present for discussion. Review of Mr. Mangen's application indicates he meets the education and experience hour requirements for certified general. Reports were reviewed by an independent reviewer. Review of Mr. Mangen's work product indicates the reports meet the minimum standards set forth in USPAP. Mr. Mangen has demonstrated a working knowledge of all three approaches to value.

Corey Kost moved to approve Jeff Mangen for certified general. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Kathy Maier, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Proposed Rules:**

Staff made revisions to the proposed rules, as directed at the September 7th meeting. Board members reviewed the final changes. Corey Kost moved to approve the proposed rules as written. Kathy Maier seconded the motion. Corey Kost, Kathy Maier, Brock DesLauriers, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried. Staff was directed to provide the finalized copy to legal counsel to move forward with the rulemaking process.

**Finances:** Staff submitted the current income and expense report. After review and discussion, Kathy Maier moved for approval. Brock DesLauriers seconded the motion. Kathy Maier, Corey Kost, Joe Sheehan, Brock DesLauriers, and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Other Business:**

**Staff Reviewer/Investigator:** Staff provided the Board with the final draft of the Investigator Job Announcement. The Board noted a few minor changes. Staff was instructed to move forward with advertising the position.

**Election of Officers:** Kathy Maier moved to elect Tim Timian as Board Chairperson. Corey Kost seconded the motion. Corey Kost, Brock DesLauriers, Kathy Maier, Joe Sheehan and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Kathy Maier moved to elect Corey Kost as Board Vice Chair. Brock DesLauriers seconded the motion. Brock DesLauriers, Kathy Maier, Joe Sheehan, Corey Kost and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

**Website:** Board members discussed revisions to the website. The webmaster has made significant changes to the site including the addition of a section designated for AMC's.

Chairman Timian called for adjournment.

Respectfully submitted,

Jodie R. Campbell  
Executive Secretary