

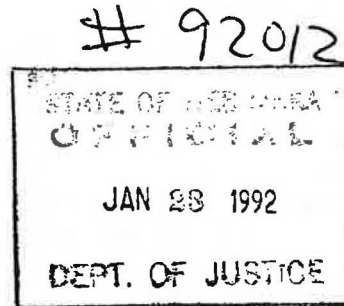


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DATE: January 27, 1992

SUBJECT: Peer Investigation as Part of Real Estate Appraiser
Disciplinary Matters; Use of Classification in
Advertising Professional Services

REQUESTED BY: Marilyn Hasselbalch, Director
Nebraska Real Estate Appraiser Board

WRITTEN BY: Don Stenberg, Attorney General
Jan Rempe, Assistant Attorney General

You have requested our opinion regarding two aspects of the Nebraska Real Estate Appraiser Act ("Act"), Neb. Rev. Stat. §§ 76-2201 to -2250 (Reissue 1990 & Supp. 1991). First, you inquire whether the Nebraska Real Estate Appraiser Board ("Board") may establish rules and regulations which provide for the use of peer investigation in dealing with standards and ethics complaints against appraisers. Second, you ask whether a registered, licensed, or certified appraiser must identify his registration, licensure, or certification when advertising the appraiser's services, such as on letterhead, business cards, and in directory advertisements.

PEER INVESTIGATION

Neb. Rev. Stat. § 76-2223(9) (Supp. 1991) allows the Board to take disciplinary action against a registrant, licensee, or certificate holder if the Board determines that the holder has violated the standards of professional appraisal practice or ethical rules, as established by rule and regulation pursuant to Neb. Rev. Stat. § 76-2237 (Supp. 1991).

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Marilyn Hasselbalch, Director
January 27, 1992
Page -2-

Neb. Rev. Stat. § 76-2239 (Supp. 1991) provides for Board investigation of Act violations:

Investigations; authorized; disciplinary action; complaint; procedure. The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Estate Appraiser Act by any registrant, licensee, or certificate holder or applicant for registration, licensure, or certification. . . . Upon receipt of information indicating that a registrant, licensee, or certificate holder may have violated any provision of the act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified individuals or companies.

(Emphasis added). As stated in the underscored sentence above, the Board is authorized to obtain technical help from qualified individuals and companies in making its investigation of complaints against appraisers. This language indicates that "peer" review or investigation of standards and ethics complaints against appraisers would be permissible under the Act, but only when "technical assistance" is required.

Because the Board may "[e]stablish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Estate Appraiser Act," § 76-2223(6), the Board would have statutory authority to promulgate rules and regulations regarding peer investigation of standards and ethics complaints against appraisers when technical assistance is necessary to that investigation.

USE OF CLASSIFICATION IN ADVERTISEMENT OF PROFESSIONAL SERVICES

Neb. Rev. Stat. § 76-2229(1) (Supp. 1991) states:

No person other than a registered real estate appraiser shall assume or use the title registered real estate appraiser or any title, designation, or abbreviation likely to create the impression of registration as a real estate appraiser by this state. No person other than a licensed real estate appraiser shall assume or use the title licensed real estate appraiser or any title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state. No person other than a certified real estate

Marilyn Hasselbalch, Director
January 27, 1992
Page -3-

appraiser shall assume or use the title certified real estate appraiser or any title, designation, or abbreviation likely to create the impression of certification as a real estate appraiser by this state. A real estate appraiser shall state whether he or she is registered, licensed, or certified whenever he or she identifies himself or herself as a real estate appraiser, including on all reports which are signed as cosigner.

(Emphasis added). The underscored language in § 76-2229(1) broadly provides that "whenever" a real estate appraiser identifies himself or herself as an appraiser, the appraiser must state his or her classification (registered, licensed, certified). Since advertisement of an appraiser's professional services on letterhead, business cards, and in directory advertisements would presumably identify the appraiser as an appraiser, we conclude that § 76-2229(1) requires that the appraiser's registration, licensure, or certification also be specified on such items.

Sincerely,

DON STENBERG
Attorney General



Jan E. Rempe
Assistant Attorney General

Approved By:



Attorney General

13-69-6.92a