

BYLAWS AND RULES OF PROCEDURE OF THE EXAMINING BOARD FOR THE TRUTH-IN-SALE OF HOUSING EVALUATORS OF THE CITY OF ST PAUL

Adopted by Resolution # 02-01 on April 17, 2002

Amended by Resolution # 03-01 on January 8, 2003

Amended by Resolution # 03-04 on January 29, 2003

Amended by Resolution # 06-02 on July 12, 2006

ARTICLE I

The Board

Section 1. **NAME.**

The name of the board shall be the Examining Board for Truth-in-Sale of Housing Evaluators for the City of Saint Paul.

Section 2. **POWERS AND DUTIES.**

The function of this board shall be to carry out the provisions Chapter 189 of the Saint Paul Administrative Code.

Section 3. **PLACE OF MEETINGS.**

The board will meet for regular and special meetings, and shall be open to the public, in a place determined by the supervisor, provided, however that upon five days written notice to the board of the place of such meeting, any regular or special meeting may be held at such other place as the notice shall designate.

ARTICLE II

Officers

Section 1. **OFFICERS.**

The officers of the board shall be a Chairperson, a Vice-Chairperson, a Secretary-Treasurer and such others as from time to time are provided by official action of the board.

Section 2. **TERMS OF OFFICERS.**

The chairperson and vice-chairperson of the board shall be elected by the board members at each January meeting and shall serve for one (1) year and until their successors are elected. The secretary-treasurer shall be the supervisor, as specified in Chapter 189 of the Saint Paul Legislative Code.

Section 3. **VACANCIES.**

Should the office of the chairperson, vice-chairperson become vacant, the board may elect a successor for the unexpired term of the said office.

ARTICLE III
Duties of Officers

Section 1. CHAIR.

The chair shall have the duties and powers usually attendant upon the office of the chair and such other duties and powers as may be provided from time to time by the board. The chair shall preside at all meetings of the board at which he/she is present.

Section 2. VICE-CHAIR

The vice-chair shall perform the duties of the chair in his/her absence or incapacity, or when the office of the chair is vacant and until a new chair is elected.

Section 3. SECRETARY-TREASURER

The supervisor shall be the board secretary and shall perform the duties of the office of secretary-treasurer of the board. The secretary-treasurer shall preside at all meetings of the board in the absence of the chair and vice-chair. The secretary-treasurer shall be responsible for preparing and recommending approval of the board meeting minutes.

ARTICLE IV
Board Policies

Section 1. GENERAL.

Board members shall at all times be responsible to, in good faith, execute their duties in conformity with Chapter 189 of the Legislative Code of the City of Saint Paul and these bylaws. In any case of actual or potential conflict of interest, the board member affected shall abstain from participating in the deliberations and voting on that matter.

The board may recommend to the Mayor that one of its members be replaced under the following circumstances:

1. Where, despite having a serious conflict of interest, the member has concealed that conflict and/or has participated in a decision regarding that specific issue.
2. After three consecutive unexcused absences from duly noticed meeting of the board.

ARTICLE V
Meetings

Section 1. ANNUAL MEETINGS

The annual meeting of the board shall be coincident with the January quarterly meeting of the board. The major item to be considered and action to be taken at the annual meeting is the election of officers.

Section 2. REGULAR MEETINGS

Regular Meetings of the board shall be held quarterly on the second Wednesday of January, April, July and October, as specified in Chapter 189. If the Chairperson or Supervisor determines that due to unforeseen circumstances, or a legal holiday, the regularly scheduled meeting may be postponed for a period not to exceed thirty (30) days. The supervisor, together with the board chair, shall determine the agenda for board

meetings. If the supervisor and chair determine there is not sufficient business to warrant a regular meeting, the chair may cancel the meeting provided there is a five-day notice.

Section 3. SPECIAL MEETINGS

Special meetings of the board may be called by the chairperson or the supervisor. The supervisor shall make all reasonable efforts to notify all members as to the time, place and purpose of such meeting. If no quorum will be able to attend, the meeting shall not be held and another date for the Special Meeting may be scheduled using the same procedures. At any Special Meeting no business shall be considered unless specified in the notice.

Section 4. NOTICE OF MEETINGS

Notice of all meetings of the board stating the time, place and purpose of the meetings, shall be available from the supervisor prior to each meeting, at least five (5) days prior to the meeting.

Section 5. QUORUM

A majority of the appointed members of the board, including the supervisor, shall constitute a quorum for all purposes. If a quorum is not present at the end of roll call the chairperson may adjourn the meeting, or may continue the meeting without taking any action(s) on quorum-dependent items, until such time as a quorum is reached. A lesser number may adjourn a meeting from time to time until a quorum is obtained. When a quorum is present, action may be taken by the commission upon a vote of a majority of the board members present except as otherwise provided for in these bylaws.

Section 6. ABSENCE FROM MEETINGS.

Each member shall be responsible for notifying the board secretary if he or she must be absent from a regularly scheduled meeting, indicating the reason for the necessary absence. The chair may excuse members from meetings due to personal or work-related conflicts. In the event a member has three consecutive unexcused absences from duly noticed regular meetings, the chair shall recommend that the mayor request the resignation of such member from the board. In the event that a member has six or more excused absences over a two-year period, the chair shall consult with the member to determine his or her ability to serve fully on the board.

Section 7. MANNER OF VOTING

Voting on all business before the board may be by a voice vote called for by the chair. The vote shall be entered upon the minutes of each meeting. The chair and all members present shall be entitled to vote, except the supervisor may not vote on any disciplinary action nor on any action involving an appeal to the evaluator testing process. A roll call on any question before the board may be taken upon the demand of one or more members of the board. A board member need not vote on all questions, but may abstain from voting. Upon the adjourning of a board meeting where no final action was taken, a vote may be taken by remote process, only if the Chairperson at the time of the adjournment indicated a remote process vote would be taken, and only members present at the time of the discussion of the unresolved matter are allowed to participate in the remote process vote.

ARTICLE VI

Personnel

Section 1. PERSONNEL

The board may from time to time employ such additional personnel it deems necessary to exercise its powers, duties and functions.

Section 2. COMMITTEES

In accordance with Chapter 107 of the administrative Code, special committees may include non-board members. Such committees will report to the board and shall be dissolved when their specific assignment is completed.

ARTICLE VII

Duties of the Board

Section 1. GENERAL

The duties of the board shall be as specified in Chapter 189.

Section 2. ADDITIONAL DUTIES

In addition to the duties and responsibilities specified in Chapter 189, the Secretary-Treasurer (code enforcement manager or designee, also referred to as Supervisor) shall keep records of:

- A. activities of the board, and
- B. all files regarding any proceedings concerning an evaluator, including complaints, notices and investigative material. These records shall be retained by the board in the files kept by the supervisor, and
- C. In the absence of the Chairperson and Vice-Chairperson, the Supervisor shall preside at all meetings.

Section 3. OTHER DUTIES OF THE BOARD

Other duties of the board as specified in Chapter 189 of the Saint Paul Legislative Code not directly addressed in these Bylaws and Rules of Procedure are the proper business of the board and may be addressed by the board in the normal course of regular board activities. Wherever possible, the board will adhere to the principles and practices specified within the Bylaws and Rules for Procedure for other similar conditions or circumstances. Where this is not possible nor practical, the board will make a good faith effort to conduct business in a manner consistent with the “best practices” standard for public agency citizen boards.

ARTICLE VIII

Rules of Procedure

Section 1. RULES OF PROCEDURE.

The board shall establish rules of procedure as necessary.

Section 2. CONDUCT OF MEETINGS

Robert's Rules of Order Revised shall govern the board in all cases in which they are applicable and not in conflict with these Bylaws. It is understood that the board is constituted by and functions in conformity with Chapter 189 of the Legislative Code of the City of Saint Paul, and that in the event of any conflict between these bylaws and chapter 189, that Chapter 189 shall govern.

Section 2. CONFLICT OF INTEREST

The provisions of chapter 100 of the Saint Paul Administrative Code shall apply to all matters; provided, however, that notwithstanding the exemption in section 100.02 (b), restrictions on voting or participation in discussion shall apply to board members in final actions.

Section 3. AMENDMENT

The bylaws and rules of procedure of the board may be amended by vote of a majority of the members. Any proposed amendment must have been submitted in writing to the members in a reasonable period of time prior to the meeting at which said amendment is to be considered.

Section 4. TEMPORARY SUSPENSION OF RULES

In special circumstances the board may by a 2/3 vote of the members present at any meeting suspend the rules of procedures.

ARTICLE IX

Disciplinary Action

Section 1. DEFINITIONS

- A. Cause - a violation of the board's Code of Ethics for Evaluators, or of Chapter 189 of the Legislative Code, or other act or failure to act which tends to bear upon the Evaluator's ability to properly carry on the private business of evaluating dwellings.
- B. Adverse Action - as defined by Chapter 310, generally defined as an action that can include: the revocation, cancellation or suspension of a license, denial of the renewal of a license, the imposition of conditions on a license, and any other disciplinary or unfavorable action taken by the board or council with respect to a license or licensee.
- C. Suspension - license withdrawn for a definite time period.
- D. Refuse to Renew - the license of an Evaluator may not be renewed when the time period for renewal arises.
- E. Revocation - license withdrawn for a definite time period.
- F. Cancellation - license is withdrawn for an indefinite time period.

Section 2. GENERAL

The board shall adopt by Resolution a disciplinary action procedure based upon Chapter 310 of the Saint Paul Legislative Code, Uniform License Procedures, section 310.05. Hearing procedures. The procedure adopted will follow the rules of due process; to

protect the interests of the Truth-in-Sale of Housing program in the city of Saint Paul and the rights of the Truth-in-Sale of Housing evaluator.

The board may act as Hearing Examiner or request assistance from, and by resolution delegate authority to a Hearing Examiner.

Section 3.

DEFINITION OF A VALID COMPLAINT

A complaint meeting the following Complainant Criteria and Complaint Filing Criteria shall be accepted and processed by the board.

Complainant Criteria

The complaints must be from persons or organizations who meet one of the following criteria:

- A. The filing person or organization is, or directly represents, the (prospective or actual) buyer or the seller of the dwelling, or has a demonstrable and compelling interest in the property evaluated, or
- B. The filing person or organization is employed by, or directly represents, the City of Saint Paul.

Complaint Filing Criteria

The complaint must also meet both of the following criteria:

- A. The complaint must be in writing, and must be specific to the Truth-in-Sale of Housing Disclosure Report prepared for the dwelling, or it must be specific to the performance of the evaluator as required by the Board through Chapter 189, the Evaluator Code of Ethics, and other requirements approved from time to time by the Board; and,
- B. The filing person or organization completes the documents or other complaint requirements set from time to time by Board Policy or Resolution.

The Minnesota Data Privacy Act applies to all complaints filed with the Board. Once filed with the Board, the complaint and the complaint process are private and confidential in the manner provided by law. No information about complaints will be published unless the complaint investigation process becomes a matter of public record through the application of the Minnesota Data Privacy Act, the Minnesota Open Meeting laws or other superseding authority.

Falsification of any of the information submitted in or with a complaint is grounds for immediately closing the complaint.

(Section adopted by Board Resolution 03-01, 1/8/03, amended by Board Resolution 03-04, 1/29/03)

Section 4

APPEAL OF THE DECISION OF THE BOARD

- A. Any adverse action taken by the board may be appealed by the subject evaluator within ten (10) days of the date of notification of the board's decision. Such appeal shall be heard by the City Council of Saint Paul. Any objection or challenge not filed within the ten (10) day appeal period shall be deemed waived by the evaluator and the evaluator shall be bound by the board's decision.
- B. The appeal to the decision must be in the manner prescribed by the city clerk for appeals to the city council.
- C. The further progress of the appeal is determined by city council.

Section 5. DECISION OF THE CITY COUNCIL

- A. All parties shall be bound by the decision of the city council.
- B. The City Council's decision shall be final.

ARTICLE X

Evaluator Examinations and Appeal Procedures

Section 1. GENERAL POWERS AND/OR DUTIES

It shall be the duty of the board to approve the process by which evaluator applicants are tested. The board may delegate to the supervisor the responsibility for designing, administering and scoring tests and/or the testing process for prospective evaluators, subject to board approval.

Section 2. COMPLAINT FILING

Complaints by evaluator applicants about the evaluator test content and/or the test process must be filed with the supervisor, and must be received by the supervisor within ten (10) days of the date of the test. Complaints must be specific and in writing.

Section 3. COMPLAINT RESOLUTION

The supervisor shall respond to the complaints within ten (10) days of the end of the filing period for complaints. The supervisor has the authority to resolve the complaint, up to and including clarification of test questions, answers, and scoring. Any changes made to any one test shall also be applied to the test of all other evaluator applicants. The supervisor's decision(s) regarding the test content are final and may not be appealed.

Section 4. TEST PROCESS APPEAL FILING

Complaints about the test process, only, may be appealed to the board. Any such appeal to the board must be in writing and must state with specificity all objections and challenges to the test process. The appeal must be filed with the supervisor at the current business address for the Truth-in-Sale of Housing program, and addressed to:

(Name), Chairperson

Truth-in-Sale of Housing Board

Section 5. TEST PROCESS APPEAL PROCEDURE

The board shall adopt an appeal process by Resolution. The appeal process shall include provisions for notice, hearing testimony, and publishing a decision.

Section 6. DECISION OF THE EXAMINING BOARD FINAL

All parties shall be bound by the decision of the Examining Board for Truth-in-Sale of Housing Evaluators for the City of Saint Paul.

Section 7. NO APPEAL TO CITY COUNCIL.

Truth-in-Sale of Housing evaluator applicants may not appeal the board decision about the evaluator testing process to the city council.

ARTICLE XI

Amendments

Section 1.

AMENDMENT

The bylaws and rules of procedure of the board may be amended by vote of a majority of the members. Any proposed amendment must have been submitted in writing to the members in a reasonable period of time prior to the meeting at which said amendment is to be considered.