



Guidance Document 17-03

Adopted June 15, 2017

This guidance document is advisory in nature but is binding on the Nebraska Real Property Appraiser Board ("Board") until amended or repealed by the Board. A guidance document does not include internal procedural documents that only affect the internal operations of the Board and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document (Neb. Rev. Stat. § 84-901.03 (2)).

SUBJECT: Credentialing Applicant Advisory Meeting Information

LEGAL REFERENCE: Neb. Rev. Stat. § 84-712.05 (5) (Laws 2016, LB447, § 45; LB471, § 3; LB1109, § 1); 298 NAC, Ch. 8, § 002.09A (2017)

SUMMARY OF ACTION

Approved by the Board at its July 17, 2014 meeting as Board Policy 14-04. Board Policy 14-04 was retired by the Board on May 24, 2017. Guidance Document 17-03 was adopted by the Board at its June 15, 2017 meeting as presented.

BACKGROUND

Excerpt from July 17, 2014 meeting of the Nebraska Real Property Appraiser Board: *The Board reviewed drafted Board Policies 14-03 concerning supervisory appraiser notification of appraisal report found to not be in substantial compliance with USPAP, and 14-04 concerning credentialing applicant advisory meeting information. Director Kohtz informed the Board that after discussions with Chairman Barkley and Vice-Chairman Kubert, the language "not be in substantial compliance with USPAP" will be replaced with "contain USPAP deficiencies" in the first sentence. The Board agreed with this change. There was no discussion pertaining to drafted Board Policy 14-04. Board Member Kubert made a motion to approve Board Policy 14-03 as amended, and Board Policy 14-04 as presented. The motion was seconded by Woodle, and carried with Saxton, Langemeier, Woodle, Kubert and Barkley voting aye.*

LB 867, enacted by the Legislature in 2016, makes a number of changes to the rulemaking provisions of the Administrative Procedure Act ["APA"], Neb. Rev. Stat. §§ 84-901 to 84-918 (2014, and Cum. Supp. 2016). Agencies are authorized to issue "guidance documents," which are defined to "mean any statement developed by an agency which lacks the force of law but provides information or direction of general application to the public to interpret or implement statutes or such agency's rules or regulations." Guidance documents are binding on an agency until amended by the agency, and shall not give rise to any legal right or duty or be treated as authority for any standard, requirement, or policy. Guidance documents replace the Nebraska Real Property Appraiser Board's prior use of board policies to provide direction to the public, and to interpret or implement statutes and rules.

ANALYSIS

Board Policy 14-04, which was adopted by the Board on July 17, 2014, was retired by the Board on May 24, 2017 to implement the former board policy as a guidance document.

GUIDANCE

Any information obtained during an advisory meeting between a board member(s) and a trainee real property appraiser, held to discuss one or more appraisal reports and/or reviews of those appraisal reports for consideration of credentialing, shall be a part of the examination record for that credentialing applicant in accordance with Neb. Rev. Stat. § 84-712.05 (5). The board member(s) in attendance at the advisory meeting, and/or staff, may discuss information obtained during the meeting with the supervisory appraiser if permission is granted to do so by the Board.