

**NEBRASKA REAL PROPERTY APPRAISER BOARD
NRPAB OFFICE MEETING ROOM, FIRST FLOOR
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

November 13, 2015 Meeting Minutes

A. OPENING

Chairman Thomas Kubert called to order the November 13, 2015 meeting of the Nebraska Real Property Appraiser Board at 9:04 a.m., in the Nebraska Real Property Appraiser Board meeting room located on the first floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

B. NOTICE OF MEETING

Chairman Kubert announced the notice of the meeting was duly given, posted, published, and tendered in compliance with the Open Meetings Act, and all board members received notice simultaneously by email. Publication of official notice of the meeting appeared in the November 9, 2015 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this state, as required by the Open Meetings Act. The agenda was kept current in the Nebraska Real Property Appraiser Board office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public, and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Thomas Kubert, Christopher Langemeier, Larry Saxton, and Sandra Gutwein were present. Board Member Marc Woodle was absent and excused. Also present were Director, Tyler Kohtz, Compliance and Education Specialist, Grant Krieger, and Business and Licensing Specialist, Jayme Kienholz-Howsden.

ADOPTION OF THE AGENDA

Chairman Kubert reminded those present for the meeting that the agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Langemeier moved to adopt the agenda as printed. Board Member Saxton seconded the motion. With no further discussion, the motion carried with Gutwein, Saxton, Langemeier, and Kubert voting aye.

The Nebraska Real Property Appraiser Board will meet in executive session for review of applicants and enforcement matters.

Board Member Langemeier moved that the Board go into executive session for the purpose of reviewing applicants for credentialing, applicants for appraisal management company registration, investigations, and other sensitive matters. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. The time on the meeting clock was 9:07 a.m. Board Member Gutwein seconded the motion. The motion carried with Saxton, Langemeier, Gutwein, and Kubert voting aye.

Break from 10:07 a.m. to 10:18 a.m.

Board Member Langemeier moved to come out of executive session at 10:56 a.m. Board Member Saxton seconded the motion. The motion carried with Langemeier, Saxton, Gutwein, and Kubert voting aye.

Lunch served to board members and staff at 11:20 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairman Kubert welcomed all.

H. BOARD MEETING MINUTES

1. APPROVAL OF OCTOBER 21, 2015 MEETING MINUTES

Chairman Kubert asked for any additions or corrections to the October 21, 2015 minutes. With no further discussion, the Chairman called for a vote. Board Member Langemeier moved to adopt the October 21, 2015 meeting minutes as presented. Board Member Gutwein seconded the motion. The motion carried with Saxton, Gutwein, Langemeier, and Kubert voting aye.

I. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of November 13, 2015. The Director summarized each chart and reported the number of appraisers as follows: 67 total Licensed, 63 credentialed through education, experience, and examination, and 4 through reciprocity; 227 total Certified Residential, 185 credentialed through education, experience, and examination, and 42 through reciprocity; 402 total Certified General, 249 through education, experience, and examination, and 153 through reciprocity. In addition, there are 0 Registered and 61 Trainees currently credentialed.

As of November 13, 2015, a total of 696 appraisers, not including the Trainee classification, were reported by the Director, up 4 from October, and down 8 from November 2014. A total of 757 appraisers, including the Trainee classification, were also reported by the Director, up 4 from October, and even with November 2014. A total of 497 appraisers credentialed through education, experience, and examination, not including the Trainee classification, was reported, which is down 7 from November 2014, and a total of 199 appraisers credentialed through reciprocity was reported, which is down 1 from November 2014.

In addition, the Director addressed the number of temporary permits issued. There were 26 permits issued in October compared to 23 permits issued in September. As of October 31, 2015, 166 temporary permits have been issued for the calendar year. Finally, Director Kohtz reported 102 AMCs registered.

The Director ended his report by informing the Board that 27% of Certified General, 29% of Certified Residential, and 37% of Licensed Residential Real Property Appraisers have renewed as of November 12, 2015.

J. FINANCIAL REPORT AND CONSIDERATIONS – NOVEMBER 2015

1. APPROVAL OF OCTOBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for October were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific October expenses, and brought attention to the postage expense of \$329.71, which includes the cost of the renewal reminder postcards sent out; the conference registration expense of \$175.00 for the Fall UNL Career Fair attended by Director Kohtz and Chairman Kubert; the educational services expense of \$399.00 for Compliance and Education Specialist Krieger's USPAP Course registration; and the commercial transportation expense of \$758.70 for Director Kohtz's airline ticket to attend AARO. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$24,158.43 in expenditures and \$36,294.57 in revenues were reported. As of the end of October, expenses amount to 25.76 percent of the budgeted expenditures for the fiscal year; 33.70 percent of the fiscal year has passed. Finally, Director Kohtz presented three charts outlining the Agency twenty-five month expenses and revenues, historic cash balance, and twenty-five month cash balance.

Director Kohtz finished by informing the Board that the item on the General Ledger Detail Report titled "P Card Rebate for 3rd Qtr 2015" is a rebate received from US Bank for using the purchase card, and "September 2015 Furn Auction" is a revenue received for sale of the Board's surplus property.

Board Member Saxton moved to accept and file the October 2015 budget reports for audit. Board Member Gutwein seconded the motion. The motion carried with Gutwein, Langemeier, Saxton, and Kubert voting aye.

2. PER DIEMS

Director Kohtz requested a per diem payment in the amount of \$100.00 for Chairman Kubert for representing the Board at a November 2, 2015 legislative meeting with Director Kohtz. Chairman Kubert informed the Board that he does not wish to receive a per diem payment. No further discussion took place.

K. GENERAL PUBLIC COMMENTS

Chairman Kubert asked for any public comments. With no comments, the Chairman proceeded to Education.

L. EDUCATION

Board Member Langemeier moved to approve the following education activities and instructors as listed:

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

Appraisal Institute

2016-2017 15-Hour National USPAP Course (QE21601)/15 Hours – Tom Kirby

The Moore Group

2016-2017 15-Hour National USPAP Course (QE21601)/15 Hours –
Bradford Moore, Diane Moore

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

McKissock, LP

2016-2017 7-Hour National USPAP Update Course (C21601)/7 Hours –
Dan Bradley, Tracy Martin

Appraisal Institute

2016-2017 7-Hour National USPAP Update Course (C21601)/7 Hours – Tom Kirby
Advanced Concepts and Case Studies – Synchronous (C21557-I)/37 Hours – Don Emerson
Eminent Domain and Condemnation (C21558-I)/7 Hours – John Underwood

The Moore Group

2016-2017 7-Hour National USPAP Update Course (C21601)/7 Hours –
Bradford Moore, Diane Moore

OTHER EDUCATION ACTIVITY MATTERS

Appraisal Institute

Advanced Income Capitalization (C21326-I) – Correct approved hours from 14 to 32.

INSTRUCTORS

Randall School of Real Estate

Home Inspection: Assessing Property Condition (C21121) – Stephen Vacha

Seconded by Saxton. Chairman Kubert called for the vote. The motion carried with Gutwein, Langemeier, Saxton, and Kubert voting aye.

M. UNFINISHED BUSINESS

- 1. OPEN 1ST CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION:** Director Kohtz requested comments from the Board to provide to the Governor's office concerning the 1st Congressional District appointment. Chairman Kubert indicated that it would be wise to wait until December to provide feedback to the Governor. There was no further discussion.

N. NEW BUSINESS: None.

O. LEGISLATIVE REPORT AND BUSINESS

- 1. REQ0397 – USPAP UPADATE BILL:** Director Kohtz presented REQ0397 to the Board for review, which includes the Board's recommendations made at the October meeting. The Director brought attention to changes made to the draft during the last month. Specifically, line 28 on page three added "who is a credential holder" between "employee" and "of" to clarify that the requirement for disclosure only applies to salaried employees that are credentialed real property appraisers in Neb. Rev. Stat. § 76-2221 (1); the language in Neb. Rev. Stat. § 76-2227 (1), (2), (3), beginning at line 26 of page 6 is updated to include all types of credentials applicable to the provision; the background requirements currently found in Neb. Rev. Stat. §§ 76-2227.01 through 76-2233 for an initial, upgrading, and renewal of a credential is consolidated under Neb. Rev. Stat. § 76-2227 beginning on page 7 to eliminate duplication in each credential section; and finally, language was updated in Neb. Rev. Stat. § 76-2238 (20) and (21) to state, "issued by another regulatory agency," instead of "held by another regulatory agency" for grammatical correctness.

Chairman Kubert brought attention to the course completion time requirements found on lines 18 through 23 on page 9 pertaining to the real property associate credential. The Chairman asked, "Is this appropriate given the type of person that is a potential applicant?" Director Kohtz added that the basis was to model the trainee real property appraiser requirements, so it can be changed if needed." Chairman Kubert stated, "Many of the individuals that would apply for this credential would have taken these courses long ago; I don't think it is right to make them retake it for a designation." The Board agreed with this assessment, and Director Kohtz informed the Board that it will be changed.

The Director then brought attention to the exam requirements for the real property associate, and asked the Board if it felt the exam was appropriate. Chairman Kubert asked what the exam entails. Director Kohtz responded that it would be either the certified general, certified residential, or licensed residential national exam. The Board agreed that this requirement is too harsh, and asked Director Kohtz to strike the language from the Real Property Appraiser Act in the draft.

Director Kohtz asked for a motion to accept recommended changes for the draft. Board Member Gutwein moved to accept recommended changes and continue process of developing the bill draft for review at the December meeting. The motion was seconded by Langemeier, and carried with Saxton, Gutwein, Langemeier, and Kubert voting aye.

2. **REQ03832 – AD VALOREM MASS ASSESSMENT BILL:** Director Kohtz presented REQ03832 to the Board for review. This bill, which is the result of LR258, includes an added exemption to the Real Property Appraiser Act for independent contractors that assist in the assessment of real property for taxation purposes. The Director informed the Board that, on Tuesday, November 3, 2015, he and Chairman Kubert met with Bill Marienau, Legal Counsel for the Banking, Commerce, and Insurance Committee, and Craig Breunig from Senator Johnson’s office, to discuss the proposed language. Director Kohtz indicated that the discussions went well, and that Mr. Marienau and Mr. Breunig were notified that the Board would consider the language or amendments at its November meeting. There was no further discussion.
3. **AD VALOREM MASS ASSESSMENT PROPOSED LANGUAGE:** Director Kohtz presented draft language for the Board to consider as an amendment to REQ03832. Chairman Kubert informed the Board that he was concerned the language in the bill draft is too vague, and opened the door up to activities the bill is not intended to allow, nor would the Board agree with. Chairman Kubert went on to say that he could see the exemption being cited by tax reps in some situations, and that the valuation of some properties for tax purposes can be complicated. The Chairman finished by saying that the language in REQ03832 needs to be tightened up to clarify what specific activities are allowed under the exemption. The Board agreed that the proposed draft language is specific and acceptable. Board Member Langemeier moved to accept the proposed draft language to amend REQ03832. The motion was seconded by Gutwein, and carried with Gutwein, Saxton, Langemeier, and Kubert voting aye.
4. **TITLE 298 UPDATE:** Director Kohtz presented the informal comments from Assistant Attorney General Hart concerning the updated draft of Title 298. The Director informed the Board that he has reviewed all comments and recommends implementing all recommendations.

Director Kohtz also informed the Board that the instructor requirements in section 005.01E.2 on page 59 concerning specific courses, was changed to “Be a state-certified appraiser” to remove conflict with existing language in the Real Property Appraiser Act, and also future language in Title 298. This will allow for an appraiser credentialed in any jurisdiction the ability to be an instructor for the specified courses. Board Member Gutwein moved to approve the change as presented. The motion was seconded by Langemeier, and carried with Saxton, Gutwein, Langemeier, and Kubert voting aye.

Board Member Langemeier moved to approve the draft Title 298 as amended and set the hearing date for December 17, 2015. The motion was seconded by Gutwein, and carried with Langemeier, Saxton, Gutwein, and Kubert voting aye.

P. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **Current Board Policies:** No discussion.

2. FORMS AND PROCEDURES

- a. **2016-17 UPSAP Standard 3 Review Form:** Director Kohtz presented the “2016-17 USPAP Standard 3 Compliance Review Report” form to the Board, and informed the Board that it is the same form reviewed at the October meeting. The Director indicated that a vote was not taken to approve the form during that meeting. Business and Education Specialist Kienholz-Howsden reminded the Board that it requested that generic email accounts be set up for all Board forms. Director Kohtz stated that this task is currently in progress, and the generic email accounts will be added to forms at the time other revisions are needed. Board Member Saxton asked if a “Yes” or “No” checkbox could be added to the form to show if the appraiser considered exposure time. Director Kohtz indicated that this change can be made. Chairman Kubert asked if a follow-up survey could be created to help the Board better understand the reviewers’ prospective concerning use of the form. Director Kohtz indicated that this can be done as well. Board Member Saxton moved to approve the 2016-17 USPAP Standard 3 Compliance Review Report as amended. The motion was seconded by Langemeier, and carried with Saxton, Langemeier, Gutwein, and Kubert voting aye.

Q. OTHER BUSINESS

1. **BOARD MEETINGS:** No discussion.
2. **CONFERENCES/EDUCATION:** No discussion.
3. **MEMOS FROM THE BOARD:** Chairman Kubert asked that a Memo From the Board be drafted and sent informing the appraiser community of the upcoming rules hearing and changes to Title 298. Director Kohtz informed the Board that a memo will be drafted for review.
4. **APPRAISAL SUBCOMMITTEE:** Director Kohtz presented a graph titled “Mortgage and appraiser Trends” presented by Jim Park with the Appraisal Subcommittee at the Fall AARO Conference. The Director brought attention to the national trends compared to those seen in Nebraska, and indicated that the Certified General and Licensed Residential trends are very similar, but that the Certified Residential is holding steady to slowly increasing in Nebraska, while nationally, this credential is rapidly decreasing.
5. **APPRAISAL FOUNDATION**
 - a. **Appraiser Qualifications Board Public Hearing Summary – October 16, 2015:** Director Kohtz presented the Appraiser Qualifications Board public hearing summary to the Board for review, and informed the Board that testimony can be reviewed at the link included in the summary. There was no further discussion.
 - b. **The Appraisal Standards Board October Q&A’s:** The Appraisal Foundation’s document titled “USPAP Q&A” issued on October 29, 2015 was presented to the Board for review. This document discussed two questions; one pertaining to appraising two lots as one, and another pertaining to certification with multiple appraisers. There was no discussion.
6. **IN THE NEWS:** No discussion.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:

Board Member Langemeier moved to take the following actions for the applicants as listed:

- T15011 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**
- T15011 (SA) / Approve as Supervisory Appraiser.**
- CG15027R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**
- CG15016 / Hold.**
- CR14026 / Hold.**
- CG15007 / Education and Experience accepted; approve to sit for exam, and authorize Director to issue credential upon successful completion of exam.**

Board Member Saxton seconded the motion. Motion carried with Saxton, Gutwein, Langemeier, and Kubert voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: None.

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Board Member Langemeier moved to take the following enforcement actions:

- 15-18 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 And N.R.S. § 76-2238 (12), (13), (16).**
- 15-19 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 And N.R.S. § 76-2238 (4), (16).**
- 15-20 / Dismiss without prejudice; send advisory letter.**
- 15-21 / Open Grievance and proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-3203 (4)**
- 14-22 / Agency select one additional report from log; request true copy of appraisal report and workfile.**
- 14-23 / Monitor Consent Agreement; refer to 14-22**
- 14-24 / Monitor Consent Agreement; refer to 14-22**
- 14-26 / Monitor Consent Agreement; refer to 14-22**
- 14-27 / Monitor Consent Agreement; refer to 14-22**
- 15-03 / Ongoing**
- 15-04 / Ongoing**
- 15-05 / Hold**
- 15-06 / Ongoing**
- 15-07 / Dismiss without prejudice; accept resignation of AMC registration**
- 15-09 / Hold**
- 15-10 / Ongoing**
- 15-11 / Ongoing**
- 15-14 / Ongoing**
- 15-15 / Ongoing**
- 15-16 / Ongoing**

Board Member Gutwein seconded the motion. Motion carried with Gutwein, Langemeier, Saxton, and Kubert voting aye.

Board Member Langemeier moved to take the following enforcement actions:

14-32 / Hold
14-33 / Hold
14-35 / Ongoing

Board Member Saxton seconded the motion. Motion carried with Langemeier, Gutwein, Saxton, and Kubert voting aye.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

Board Member Langemeier moved to take the following actions for other executive session items:

I14-32 / Hold
I14-33 / Hold
I15-16 / Hold
I15-17 / Hold
I15-18 / Hold

Board Member Saxton seconded the motion. Motion carried with Saxton, Gutwein, Langemeier, and Kubert voting aye.

R. ADJOURNMENT

Board Member Langemeier moved to adjourn the meeting. Board Member Gutwein seconded the motion. Motion carried with Langemeier, Gutwein, Saxton, and Kubert voting aye.

At 12:45 p.m. Chairman Kubert adjourned the November 13, 2015 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on December 1, 2015, in compliance with Nebraska Revised Statute §84-1413 (5).