

**REAL PROPERTY APPRAISER BOARD
CONFERENCE ROOM "D"
LOWER LEVEL, NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE
March 20, 2007**

OPENING

Chair Sheila Newell called to order the March 20, 2007, meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in Conference Room "D", 5th Lower Level, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Board Members Timothy Kalkowski, Joe Wilson, Jim Bain, Sheila Newell and Gregg Mitchell were present. Interim Administrator Kitty Policky, was also present.

NOTICE OF MEETING

Chair Newell announced notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Law, and all Board members received notice simultaneously by e-mail. The agenda was kept current in the Nebraska Real Property Appraiser Board Office. Materials generally used by the Board for the meeting were available in the public folder for inspection. A copy of the Open Meetings Law was available for the duration of the meeting.

ADOPTION OF THE AGENDA

Chair Newell requested changing the general order of the Agenda, moving item "N" to the beginning of the meeting and to allow guest speakers, Assistant Attorney General Charles Lowe and Executive Director Frank Daley to address the Board upon arrival. Board Member Mitchell moved to adopt the Agenda with the general order changes. Board Member Wilson seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye. Motion carried.

Vice Chair Wilson moved that the Board go into executive session for the purpose of consideration of disciplinary action concerning case #06-01 and 06-02. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals involved with alleged violations of real property appraisal practice. The time on the meeting room clock was 9:03 a.m. Board Member Kalkowski seconded. The motion carried with Bain, Wilson, Mitchell, Kalkowski and Newell voting aye.

Chairman Newell restated the sole purpose for the executive session was to consider disciplinary action. The time was 9:03 a.m. Present for the executive session were Board Members Newell, Bain, Wilson, Kalkowski and Mitchell. Interim Administrator Policky was also present.

DISCIPLINARY ACTION

Vice Chair Wilson moved to come out of executive session at 9:23 a.m. Board Member Mitchell seconded. The motion carried with Bain, Wilson, Mitchell, Kalkowski and Newell voting aye.

Board Member Bain moved in reference to Case #06-01 and Case #06-02 to amend the July 20, 2006 motion to send Advisory Letter and dismiss. Mitchell seconded the motion. The

motion carried with Mitchell, Bain, and Newell voting aye. Kalkowski and Wilson abstained.

WELCOME AND GUEST SPEAKERS

Chair Newell welcomed the guests to the meeting and asked them to please sign the guest log. Signing the guest log were Diane Moore, The Moore Group; Richard Keith, Certified General Appraiser, Lincoln; Cay Lacey, Certified General Appraiser, Lincoln; John Bredemeyer, Certified General Appraiser, Omaha; Tom Kubert, Certified General, Lincoln; and Wayne Kubert, Certified General, Lincoln.

Chair Newell welcomed Assistant Attorney General Charles Lowe to respond to questions regarding the process for disciplinary actions and enforcements. With the aid of a handout to each individual present, Mr. Lowe reviewed the disciplinary actions procedures and answered questions. Mr. Lowe stated that the current board procedure for enforcement proceedings meets the requirements for due process of law. Mr. Lowe stated that the prior to the filing of a formal complaint, the Board may investigate the complaint including informal conferences with the respondent without appointed legal counsel so long as the appraiser's right to due process is not jeopardized nor ex parte communications are violated. Mr. Lowe stated that if an agreement between the credential holder and the Board cannot be made, upon filing a formal complaint, the appointed special counsel should be engaged. The use of investigators or expert witnesses and training sessions for reviewers was not a legal violation and would be considered a management decision. Past Chair John Bredemeyer suggested that the Appraiser Board submit the adopted disciplinary and enforcement procedures to the Appraisal Subcommittee to assure that the procedures were in compliance with the ASC. Mr. Lowe agreed that the use of the name, case number, items on the agreement or order and if applicable any fees paid by the respondent could be used for publication.

Chair Newell and members of the Board expressed sincere appreciation to Assistant Attorney General Lowe for his informative presentation. The handout is attached and made part of these minutes.

Vice Chair Wilson moved to take a 5 minute recess. Board Member Mitchell seconded. Motion carried with all members voting aye. The time was 10:10 a.m.

Board resumed at 10:15 a.m.

Chair Newell introduced Frank Daley, Executive Director, Accountability and Disclosure Commission, the state agency which regulated personal financial disclosure and conflicts of interest, political committee organization, campaign financing, and lobbying or as they would apply to state and executive branch officials. Mr. Daley expressed appreciation to the Board for the invitation to provide information about some of the more important laws and rules and regulations that apply to Board members as state government officials. Mr. Daley explained to the Board that not knowing the conflict of interest laws and the laws applicable to Board or Commission members makes appointees particularly vulnerable in the environment in which Board members operate. He went on to explain that a person, who is not happy with a decision, may feel perfectly free to malign a public official. With the intention of presenting the basic information of what applies and how it applies, Mr. Daley gave each Board member a summary of the accountability laws and how they apply to Board members. Mr. Daley

followed the outline of his handout as he covered and expanded on each topic. A copy of the handout is attached and made a part of these minutes.

Mr. Daley began with the discussion of Conflict of Interest. He explained that a person has a conflict of interest as a state public official if faced with taking an official action or making an official decision which could result in a financial benefit or a financial detriment to the official, whether it is to a family or business which the official is associated. He explained that “business with which you are associated,” has a very broad definition. He noted that as a member of the Board that the associations to entities could become a conflict of interest if something related to an entity comes before the Board for a decision. He went on to explain that a “family member,” is defined as a spouse, a child residing in household, a federal income tax dependent, a very narrow definition. Mr. Daley explained that Nebraska law does not take the position that there is something wrong with having a conflict of interest. That interpretation, he noted, would prohibit most citizens from public service. Nebraska law provides a process for dealing with conflicts. He advised that if one believes he has a potential conflict of interest, it must be disclosed in writing to the Accountability and Disclosure Commission on the Commission forms. The Commission will respond in writing. If the Commission believes there is a conflict, the Commission will advise what must be done to deal with the situation. “Typically,” he said, “if the Commission finds a conflict of interest exists, the Commission advises the official to abstain from voting on the matters in which the conflict exists.”

Mr. Daley noted that there are exceptions in entering into contracts with other government entities and those exceptions do require steps that will ensure all business dealings and processes are on top of the table and open to public view.

According to Mr. Daley, state law does not prohibit public officials from accepting gifts, but there are guidelines. There is a law against receiving gifts from lobbyists and principals, who are prohibited from giving gifts with a value of no more than \$50 per month. He also spoke about prohibition against use of the power of public position for financial gain, including use of any confidential information received as a member of a Board and personal use of Board resources. He added that there is a public perception that the Board members should consider. What may be legal may not be publicly acceptable.

Mr. Daley affirmed the Commission’s goal is to provide information needed so that state government officials can comply with state law. Responses are given to all questions by telephone, even “hypothetical” questions. If something more formal is required, the Commission will provide an answer in writing.

Chair Newell and members of the Board expressed sincere appreciation to Mr. Daley for his informative presentation. The handout is attached and made part of these minutes.

APPROVAL OF THE MINUTES FROM FEBRUARY 21, 2007

Chair Newell asked for any additions or corrections to the February 21, 2007 minutes. Without correction, Board Member Bain moved to approve the minutes of the February 21, 2007, meeting. Vice Chairman Wilson seconded. The motion carried with Kalkowski, Wilson, Bain, Mitchell and Newell voting aye.

INTERIM ADMINISTRATOR'S REPORT

Interim Administrator Policky reported the number of credential to date was 221 Registered and 40 Conversions for a total of 261; 163 Licensed credentials and eight reciprocity for a total of 172 Licensed credentials; 104 Certified Residential and 45 Reciprocity Certified Residential for a total of 148; 239 Certified General and 104 Reciprocity Certified General for a total of 381; Total number of 962 appraisers to date.

It was brought to the Appraiser Board's attention that the application form for reciprocity was in error and had not been updated to reflect the \$150.00 for application and \$225 credentialing fee plus the \$25.00 Federal Registry fee. The new information has been uploaded to the website and reflects the correct amounts for respective fees.

Policky reported that the audit is in progress and with frequent discussions concerning questions, procedures, and materials required.

CHAIR REPORT

Chair Newell cited Statute §76-2223. She stated as Board members we have a responsibility to provide the public with a meaningful opportunity to participate in the agency's decision making process. The Board members must perform our responsibilities consistent with the highest ethical standards of public service. Today Assistant Attorney General Charles Lowe and Executive Director of Accountability and Disclosure Frank Daley spoke to the Board on these duties. Statement 1 of the ASC also addresses the state regulatory structure and independence of functions.

RECEIPTS & EXPENDITURES/FEBRUARY

Chair Newell directed Board's attention to the February expense report. Interim Administrator Policky noted the cash fund balance is not correct and that the problems are in the independent liability accounts. All expenses and receipts for February are correct but the bottom line is not balanced. Kalkowski moved to file the February 2007 Receipts and Expenditures report for audit understanding that the bottom line is not balanced but the receipts and expenditures are correct. Board Member Bain seconded. The motion carried with Bain, Wilson, Mitchell, Kalkowski, and Newell voting aye.

UNFINISHED BUSINESS

Rules & Regulations:

Interim Administrator Policky reported that the Rules & Regulations had been returned to the Appraiser Board office as requested by Policy & Research. With the passage of LB186, an additional revision to the scope of practice was made. Three copies were produced and distributed of the rules and regulations accompanied by the hearing notice as submitted to the Journal Star newspaper 30 days prior or April 19, 2007. A revised copy of the rules and regulations was delivered to Policy Research, Secretary of State and Clerk of the Legislature as required. Board requested that a copy of the hearing notice and edited rules and regulations be put on our website.

Banker’s Educational Seminar:

Consideration for the cost of the presentation, “Extraordinary Service for Extraordinary Members,” to the Nebraska Mortgage Association was discussed. Vice Chair Wilson and Board Member Kalkowski presented the information. Lynne Heiden, Trans-American Institute of Professional Studies has agreed to do the presentations on behalf of the Board. These educational seminars would be offered in two sessions at a cost of \$1500 for each session or a total of \$3,000 for the entire educational offering. The Nebraska Mortgage Association would be providing the costs over and above the cost of the seminar such as lodging and meals. All members agreed that the sponsorship would promote public trust in appraisal practice with the Association. Board Member Kalkowski moved to approve the cost of \$1500 for each session to Lynne Heiden for the presentations. Mitchell seconded. The motion carried with Wilson, Mitchell, Kalkowski, Bain and Newell voting aye. Motion carried.

At 11:20 Vice Chair Wilson moved to take a 20 minute recess. Mitchell seconded the motion. Motion carried. The Chairman reconvened the meeting at 11:40 a.m.

NEW BUSINESS

ASB Exposure Draft:

Chair Newell stated the second exposure draft on the proposed changes to the 2006 Edition of the *Uniform Standards of Professional Appraisal Practice* and certain Advisory Opinions was issued March 5, 2007. Written comments are due to the ASB by April 6, 2007. The proposed changes include: deletion of the Supplemental Standards Rule; retirement of Statement 10; Edits related to Advocacy, Report Certification Requirements, Highest and Best Use in Standard 7, Standard 8 and Standard 6, reconciliation and reporting requirements; and two proposed Advisory Opinions. Newell stated that the intent of the Exposure Draft is to obtain comments. Discussion was held on the Board submitting comments. All members agreed that no comment was intended to be support of the draft.

Adopt Fixed Assets Policy and Personal-Use Policy and Updated Travel Policy:

The Nebraska Real Property Appraiser Board members were presented with copies of the “Fixed Assets Policy,” “Personal-Use Policy” and an “Updated Travel Policy.” As a result of the state audit, recommendations were made to adopt policies for fixed assets and personal-use items, and to update the current travel policy. All Appraiser Board members receive the same benefits for serving as a member.

Vice Chair Wilson moved to accept the “Fixed Assets Policy” and the “Personal-Use Policy” as presented. Bain seconded the motion. Motion carried with Bain, Wilson, Mitchell, Kalkowski and Newell voting aye. Vice Chair Wilson moved to accept the “Updated Travel Policy” as presented. Kalkowski seconded the motion. The motion carried with Wilson, Mitchell, Kalkowski, Bain and Newell voting aye. It was brought to the attention of the Board that Vice Chair Wilson travels from the Eagle/Palmyra area. A correction to his expense reimbursements will be made beginning in January 2007. Copies of these policies are made part of these minutes and are attached.

AARO Spring Conference:

Chair Newell reported the AARO Spring Conference will be held in St. Petersburg, Fla., May 5-7. However at the meeting date, an agenda had not been available. Discussion is tabled until the April meeting.

Remboldt & Ludtke contract approval:

Background information includes a copy of the correspondence from the Attorney General's office indicating the appointments of individuals to represent the Appraiser Board. A copy of the revised agreement with Remboldt & Ludtke indicated an increase of fees for the year 2007 to the following legal representatives: Mr. Nefsky's fee increases from \$225 to \$250 per hour; Jane Langdon's fee increases from \$175 to \$185; and, Troy S. Kirk increases from \$120 to \$140. Discussion was held on the fees submitted by Remboldt & Ludtke. The question of legal counsel as provided by Remboldt & Ludtke will be tabled until additional information is available.

EDUCATION

Board Member Mitchell moved to approve the continuing education seminars as follows:

Resource Property Group, "2007 Commercial Real Estate Workshop" – C2720 – 8 hours

Nebraska Realtor's Association, "Radon, Mold & Biologicals in Nebraska Homes" – C2723 – 3 hours

Appraisal Institute/Chicago, "General Appraiser Site Valuation & Cost Approach – C2722 – 30 hours

Appraisal Institute/Chicago, "Analytics With The Site To Do Business" – C2705 – 7 hours.

Vice Chair seconded the motion. Motion carries with Mitchell, Kalkowski, Bain, Wilson, and Newell voting aye.

Board Member Mitchell moved to accept the continuing education seminar from Mid-West Appraisers Association, "Appraisal Principles, Procedures & Techniques," C2725, for seven hours and the pre-requisite qualifying education course from Trans-American Institute of Professional Studies, Part B of the 30-hour course, "Residential Sales Comparison and Income Approaches" or "Residential Income Approach." Kalkowski seconded the motion. Board members Kalkowski, Bain, and Newell voting aye. Vice Chair Wilson abstained.

Board Member Mitchell moved to approve all instructors as submitted for "2007 Commercial Real Estate Workshop"; Dr. Shirley Niemeyer, and Rebecca L. Versch, for "Radon, Mold & Biologicals in Nebraska Homes"; Harry Holzhauser and Maureen Mastroieni for "General Appraiser Site Valuation & Cost Approach"; Leslie Sellers for "Analytics With The Site To Do Business"; and, Lynne Heiden and Barry Shea for "Residential Income Approach (Part B) and "Appraisal Principles, Procedures & Techniques". Kalkowski seconded the motion. Board members Kalkowski, Bain, Wilson, Mitchell, and Newell voting aye.

Board Member Mitchell moved to approve Joe Wilson as instructor for "Residential Income Approach (Part B) and "Appraisal Principles, Procedures & Techniques". Kalkowski seconded the motion. Board members Bain, Mitchell, Kalkowski and Newell voting aye. Vice Chair Wilson abstained.

GENERAL PUBLIC COMMENTS

Diane Moore of The Moore Group commented on the value of attending the meetings of the Board.

Board Member Mitchell moved to break for lunch at 12:30. Kalkowski seconded. Motion carried with all voting aye.

The Board reconvened at 1:00 p.m.

APPLICANTS AND DISCIPLINARY ACTIONS / EXECUTIVE SESSION

Vice Chair Wilson moved that the Board go into executive session for the purpose of considering applicants and written complaints and disciplinary actions. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to applicants and alleged violations of real property appraisal practice. The time on the meeting room clock was 1:01 p.m. Board Member Bain seconded. The motion carried with Kalkowski, Bain, Wilson, Mitchell, and Newell voting aye.

Chair Newell restated the sole purpose for the executive session was for the Board to review applicants and written complaints and disciplinary actions. The time was 1:01 p.m.

OPEN SESSION

Vice Chair Wilson moved to come out of executive session at 2:51 p.m. Board Member Kalkowski seconded. The motion carried with Bain, Wilson, Mitchell, Kalkowski, and Newell voting aye.

Vice Chair Wilson moved to take the following applicant actions:

Ratify the Registered applicants: Joshua Garris, R819; Neal Martinsen, R820; Luis Emilio Grateroi, R821;
Deny L533;
Hold CG400;
Approve Douglas Allen Heinrich, CG401;
Approve Wyona Rene Bagley, Reciprocity with Oklahoma, CG404; and
Deny CG403.

Motion seconded by Board Member Mitchell. The motion carried with Bain, Wilson, Mitchell, Kalkowski, and Newell voting aye.

Vice Chair Wilson moved to take the following disciplinary action:

Case 05-25 Agreed Settlement completed. Close;
Case 06-13 Dismiss. Send advisory letter.
Case 06-20 Hold;
Case 06-25 Issue cease and desist letter;
Case 06-26 Send Report and workfile out for independent USPAP review;
Case 06-27 Hold;
Case 06-29 Advisory. Dismiss.
Case 07-01 Invite Appraiser for informal conference 3 p.m. April meeting;

Case 07-02 & 07-03 Hold. Reviews are not returned;
Case 07-05 Hold. Review not returned;
Case 07-07 Invite Appraiser for informal conference.

Motion seconded by Board Member Mitchell. The motion carried with Wilson, Mitchell, Kalkowski, Bain, and Newell voting aye.

PERSONNEL MATTERS

Vice Chair Wilson moved that the Board go into executive session for the purpose of considering personnel matters. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals involved. The time on the meeting room clock was 2:55 p.m. Board Member Bain seconded. The motion carried with Wilson, Bain, Mitchell, Kalkowski and Newell voting aye.

Chair Newell restated the sole purpose for the executive session was for the Board to review personnel matters. The time was 2:55 p.m. Board members Mitchell, Kalkowski, Bain, Wilson and Newell were present. Kitty Policky joined the executive session at 3:10 p.m.

Vice Chair Wilson moved to come out of executive session at 3:25 p.m. Board Member Mitchell seconded. The motion carried with Kalkowski, Bain, Wilson, Mitchell and Newell voting aye.

The Appraiser Board requested advertising the position of Director in the Journal Star newspaper and reopening the application process.

NEXT MEETING DATE

Chair Newell stated the next meeting of the Nebraska Real Property Appraiser Board will be Thursday, April 19, 2007. The Rules & Regulation Public Hearing will be held at 9:00 a.m. The meeting will begin at 10:00 a.m.

Vice Chair Wilson moved to adjourn the meeting. Board Member Bain seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye. The meeting was adjourned at 3:55 p.m.

Respectfully submitted,
Kitty Policky, Interim Administrator

These minutes were available for public inspection and are in compliance with Nebraska Statute §84-1413(5).