

**REAL PROPERTY APPRAISER BOARD
LIQUOR CONTROL HEARING ROOM, 5TH FLOOR
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE
Thursday, April 17, 2008**

OPENING

Chairman Joe Wilson called to order the April 17, 2008, meeting of the Nebraska Real Property Appraiser Board at 9:06 a.m., in the Liquor Control Hearing Room, 5th Floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

NOTICE OF MEETING

Vice Chair Wilson 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 e-mail. 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, Mathew 'Joe' Wilson, Timothy Kalkowski, James Bain, Gregg Mitchell, and Bradford Moore were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chair Wilson 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. Vice Chair Mitchell moved to adopt the Agenda as printed. Board Member Moore seconded. The motion carried with Kalkowski, Moore, Mitchell, Bain, and Wilson voting aye. Motion carried.

WELCOME GUESTS

Wilson welcomed the guests to the meeting and asked them to please sign the guest log. No guests were present when the meeting was called to order.

APPROVAL OF THE MINUTES FROM MARCH 20, 2008

Chair Wilson asked for any additions or corrections to the March 20, 2008 minutes. With no corrections or additions, Chair Wilson called for a vote to approve the minutes. Board Member Bain moved to adopt the minutes as presented and Vice Chair Mitchell seconded the motion. The motion carried with Moore, Mitchell, Bain, Kalkowski, and Wilson voting aye.

CHAIR REPORT

Chairman Wilson gave a summary of the Agri-Business Conference in Kearney on April 3 that he and Board Member Moore presented an information session concerning the Scope of Practice and how financial institutions should order appraisal assignments. Brad and Joe both felt the participation was certainly beneficial and opened the door to communication between the financial and appraisal communities. Participants received a lot of valuable information as both learning tools and tools to apply for reference.

Board Member Kalkowski, the financial representative, thanked the Board for participating and stated that the understanding of the appraisal process was only beginning. The changes to the

Scope of Practice and understanding what types of assignments an appraiser can perform has been a learning process for financial representatives with the responsibility of completing such requirements.

DIRECTOR'S REPORT

Expense reimbursement Banker's Association Meeting.

Director Policky requested that the Board consider a motion to reimburse the mileage for the trip to Kearney for the presentation by the members of the Appraiser Board. Chairman Wilson and Board Member Moore traveled together. The mileage for the trip totaled 260 miles @ .505 per mile. Vice Chairman Mitchell moved to reimburse Brad Moore mileage for the trip to and from Kearney and reiterate the approval for Chairman Wilson and Board Member Moore to travel to Kearney for the Agri-Business Conference. Board Member Bain seconded the motion. The motion carried with Mitchell, Bain, Kalkowski and Wilson voting aye. Moore abstained.

Director Policky requested that the Board consider a motion to reimburse The Moore Group for just a portion of the Power Point presentation and cost for copies for the Agri-Business Conference in the amount of \$500.00. Although Brad is a member of the Board, the obligation as a member should not extend into the hundreds. Board Member Bain proposed a \$500.00 reimbursement for The Moore Group for expenses incurred for the Agri-Conference presentation in Kearney, April 3, 2008. Board Member Mitchell seconded the motion. The motion carried with Bain, Kalkowski, Mitchell and Wilson voting aye. Moore abstained.

Director Policky requested that the Board consider a motion to reimburse Vice Chairman Mitchell for the expenses allowed under the adopted Travel Policy for the AARO Spring Conference, April 12th-14th in San Francisco and to make a formal approval to attend the conference. Approval to attend the conference and expenses is required to process reimbursements. Reimbursement would include such items as the registration fee, airfare, transportation and meals allowable under the GSA schedule for San Francisco. A copy of the registration form and agenda are attached and considered part of these minutes. Board Member Bain proposed reimbursement of the expenses for the AARO Conference in San Francisco as allowable under the Travel Policy and formal approval to attend the AARO Conference. Board Member Moore seconded the motion. The motion carried with Kalkowski, Moore, Bain, and Mitchell voting aye. Vice Chair Mitchell abstained.

As a final consideration under the Director's Report, Policky did convey to the members the excitement by past member Gary Webster when she presented him with a plaque for service and a past member pin. Mr. Webster expressed how privileged he was to have not only served on the Appraiser Board but to have received such recognition. He expressed reflection and hope for future members who are appointed noting the responsibilities of those who have served after his term. He also expressed regret that his health prevented him from completing a second five-year term on the Board. Director Policky explained to the Board the inspiration and humility that Mr. Webster expressed during their lengthy, but time well spent, meeting reflecting upon the service and accomplishments of the Appraiser Board during his service.

RECEIPTS AND EXPENDITURES REPORT – MARCH 2008

The receipts and expenditures for March were reviewed by the Director by line item with the Board. A copy of the Budget Status Report is considered part of these minutes and is attached. Director Policky attached copies of LB959e and LB960e which granted the additional \$75,000 in

funds to reimburse the contractual services amount for review of demonstration reports and a small amount was appropriated to PSL. The Budget Status Report reflects the amounts that were granted. Board Member Kalkowski was optimistic because even though the influx of the requested funds would relieve the stress on the contractual services obligations, the overall budget looked good. Director Policky commented that the additional funds appropriated for contractual services would most certainly be a consideration for future budgeting as the amount appropriate for legal services was beginning to appear to be strained.

Board Member Kalkowski moved to accept and file the March 2008 Receipts and Expenditures report for audit. Board Member Bain seconded. The motion carried with Moore, Mitchell, Bain, Kalkowski, and Wilson voting aye.

UNFINISHED BUSINESS

1. Status LB1011/Amendments/Advanced

Director Policky reported that LB1011 was passed to final reading on April 15th, 44-0-5, where it was signed and presented to the Governor that same day. Governor Heineman approved LB1011 on April 16th, 2008. Since LB1011 had no emergency clause the bill will become effective 90 days after the session ends or 90 days after April 17th or on July 16th.

2. Proposed Rules and Regulations

The Board reviewed proposed changes to the Rules and Regulations. Each change or addition was discussed in length. A copy of the changes are attached and considered part of these minutes. The majority of the final changes were format changes to eliminate the dual reference to both the old requirements and the new 2008 Criteria. All changes to the rules and regulations had been discussed at length during the March meeting. Only three changes were addressed at the April meeting. The first change incorporates the policy adopted on January 17th, 2008 in regards to the qualifying education requirements. The changes to the rules and regulations simply reiterate the adopted policy. The change to Chapter 4, Education Activities; Approval; Restrictions, reads as follows: "004.06 Courses of study directly approved by the Board to meet qualifying education or core curriculum course requirements on or after January 1, 2008 must be in modular format and have approval from the AQB Course Approval Program. Qualifying education or core curriculum course requirements must be completed in a classroom setting." No objections were noted by members or general public.

The next change was to meet federal adjustments to the experience logs. Changes were incorporated in Chapter 5, Education and Experience Requirements, 007 to reflect the types of experience that can be recorded on a log of experience and the amounts acceptable on an experience log. The experience log must meet Title XI that requires States to determine that the experience log for each applicant conforms to the Appraiser Qualifications Board's minimum experience requirements for certification. For appraisal experience to be acceptable under AQB criteria, the experience must be USPAP-compliant.

The final change addressed appears in Chapter 9, Investigation and Disciplinary Proceedings. The change occurs to 009 and may exempt an individual who surrenders a credential in lieu of enforcement or disciplinary action from consideration for reinstatement or credentialing. Discussion of the final change will be made under New Business.

4. Mitchell correspondence proposed legislation/Cumo

Vice Chair Mitchell proposed considering this item under New Business to accommodate a guest that is waiting to address the Board. With no objections, Chair Wilson noted the change to the Agenda for item #4 under Unfinished Business and moved item #3 under New Business to item #1 under New Business to accommodate Mr. Sasek.

Board took a break at 10:00 a.m.

Board meeting reconvened at 10:15 a.m.

NEW BUSINESS

1. Alan Sasek/Residential applicant

Certified Residential candidate Alan Sasek appeared before the Board requesting that the Board reconsider the reviews of the three demonstration reports that were denied. The Board participated in a lengthy discussion of the reasons for the denial. The basic concept of depreciation must be illustrated in the reports in order to demonstrate to the Board and the reviewer that as a certified residential candidate has the ability to perform the concept of depreciation. Using a table for a demonstration report does not allow the reviewer or Board to assess the capability of the applicant to apply the methodology and demonstrate age-life method or economic life. The Board took the time to demonstrate the drastic difference between using the table and actually performing the age-life method. Chair Wilson stressed the tools are available as guides but a candidate must demonstrate the process but the process of issuing a certified residential assures to the public that the individual is capable of complex as well as non-complex assignments. This Board must assure that the appraiser is capable of performing to the scope of the credential. The Board made no change to the request to submit three new demonstration reports.

Board took a break at 11:05 a.m.

Board meeting reconvened at 11:15 a.m.

2. Indiana proposed reciprocity.

Director Policky presented the proposal by Indiana for a formal reciprocity agreement with Nebraska. The materials are attached and considered part of these minutes. Vice Chair Mitchell noted that Indiana was active at AARO on the issue of reciprocity. The Appraisal Subcommittee encourages reciprocity. Director Policky noted that reciprocity is considered if the qualifications for credentialing are similar and did assure the Board that Indiana had demonstrated conforming to Appraisal Subcommittee requirements and credentialing requirements were similar.

Vice Chair Mitchell proposed approval of reciprocity with Indiana. Board Member Moore seconded the motion. Motion carried with Mitchell, Bain, Kalkowski, Moore and Wilson voting aye.

3. Credential maneuvering in lieu of disciplinary action.

Vice Chair Mitchell explained that this was a topic at the AARO meeting and that the Appraiser Standards Committee as well as the regulatory agencies of the appraiser's home state wants to know about individuals who surrender their credential in lieu of enforcement or disciplinary action. They want the information for a credential holder from their state concerning the

surrender of a credential, even if a formal disposition has not been reached, to be forwarded to their respective regulatory agencies.

Director Policky explained that a copy of the complaint and agreement is sent to the Appraisal Subcommittee as well as the appraiser's home state and that a file is kept of appraisers who have surrendered credentials either voluntarily or as a result of disciplinary action. A file is maintained for future employees or board members so they will not lack the knowledge of the actions of prior boards but that no information was shared concerning the surrender of a credential in lieu of disciplinary or enforcement action.

A series of electronic files are maintained that present the enforcement cases by year, case number and disposition and another electronic file is in alpha order. It is an obligation of this office to process cases in a timely manner, maintain case files, and to report all cases that qualify under Title XI to the Federal Subcommittee.

Board Member Kalkowski moved to table the discussion requesting additional time for formulating the concept of permanently removing a credential for future consideration. Board Member Moore seconded. The motion failed with Bain, Moore, Mitchell and Wilson voting against the motion and Kalkowski voting aye.

After further deliberation of the intent of section 009, an agreement was met. Vice Chair Mitchell proposed Chapter 9, 009 would read as follows: "Non-renewal of a credential to avoid or expedite enforcement or disciplinary action does not preclude any enforcement action or sanction for any alleged violation and will prohibit consideration for reinstatement or credentialing. Surrender of a credential does not preclude enforcement action or sanction for any alleged violations and will prohibit consideration for reinstatement or credentialing."

Board Member Bain second the motion. The motion carried with Moore, Mitchell, Bain, and Wilson voting aye. Board Member Kalkowski voted nay.

The Director requested that the Board vote on the decision to approve the changes to the rules and regulations in order to proceed to set a hearing date. Vice Chair Mitchell proposed a motion to accept the final revisions and approve the rules and regulations as presented. Moore seconded the motion. The motion carried with Mitchell, Bain, Moore and Wilson Voting aye. Board Member Kalkowski voted against approving the final version of the rules and regulations with the changes made to Chapter 9.

4. ASC Proposed Amendments to Policy Statement 10G

ASC Policy Statement 10G: Validation of Experience Documentation for Appraiser Qualification Board Criteria Conformance and USPAP Compliance – is a proposal intended to address comments and questions received on said policy that was adopted on August 9, 2007. In response to the comments received, the Appraisal Subcommittee decided to revisit the statement and is proposing amendments to the Policy Statement.

Policy Statement 10 G revisions under consideration could establish an effective date for implementing the Policy Statement and clarify that States must review a representative sample of an applicant's work product based on the types of assignments included on the applicant's experience log considered for appraisal experience to be acceptable under AQB criteria. Title XI

requires States to determine whether each applicant for certification conforms to the AQB's minimum experience requirement for certification. For appraisal experience to be acceptable under AQB criteria, that experience must be USPAP compliant and establish that the accumulated experience meets the AQB certification requirement respectively of 2,500 hours of experience gained over at least a 24-month period or 3,000 hours of experience gained over at least a 30-month period. The experience must prove the applicants are capable of producing USPAP-compliant appraisal assignments citing the responsibility of the States to exercise due diligence in determining whether submitted experience is USPAP-compliant.

Vice Chair Mitchell noted that if a certified general's log contains both residential and non-residential, a State must request a representation of both types of assignments and meet the federal requirements as prescribed for each credential holder.

"New Business" ended with Vice Chair Mitchell's report on the agreements with OFHEO, New York State Attorney General Andrew Cuomo, Fannie Mae and Freddie Mac to strengthen the independence of the appraisal process. Handouts were distributed and discussion as related to the various meetings attended. The only issue open to negotiation or discussion is the implementation of the agreement. The general opinion seems to be to position the new Independent Valuation Protection Institute under the Appraisal Foundation. The purpose of the new Institute would be to mediate complaints from appraisers or complainants. The task would be to mediate or forward complaints to the appropriate jurisdiction for each state. What do we want to see in terms of communication or interaction? Do regulating bodies want the Institute to mediate prior to state jurisdiction and circumvent procedures or see the organization become a clearing house and not be a mediation body. The true basis of the procedure is to protect the investors. Origination of appraisal report can only sell to Fannie or Freddie.

Vice Chair Mitchell will develop a response to the new proposals. It is an opportunity to provide input as a regulatory body on the implementation of the proposals and process. Purpose is to produce, minimize and eliminate the potential for abuse and alleviate the conflict of interest. Response by Mitchell will address competency of appraiser assigned and adequate review processes; adequate time and compensation to complete an assignment; and creating competent networks for assignments.

Chairman Wilson requested that Mitchell forward a copy of his proposed response to each member for input and response.

GENERAL PUBLIC COMMENTS

Chair Wilson asked for any public comments. With none, the Chair proceeded to education.

EDUCATION

Vice Chair Mitchell moved to approve the following continuing education seminars for both new and renewal and respective instructors as listed:

Appraisal Institute:

On-Line / *Forecasting Revenue* / 7 hours – C2836-I

Instructor: Ted W. Anglyn

Appraisal Review Seminar – General – 7 hours / C2509

Instructor: Patrick Murphy

Property Assessment Division/Dept. of Revenue:
IAAO 101 Fundamentals of Real Property Appraisal – 30 hours / C0002
Instructor: Rick Stuart

McKissock, LP (renewal):
On-Line / *Fair Housing* – 4 hours / C9919-I
Instructor: Alan Simmons

Randall School of Real Estate:
Property Management – 30 hours / Request approval instructor only.
Instructor: Susan Wells

Board Member Moore seconded the motion. Motion carried with Mitchell, Bain, Kalkowski, Moore and Wilson voting aye.

APPLICANTS & ENFORCEMENT

Vice Chair Mitchell moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 12:37. Moore seconded the motion. The motion carried with Bain, Kalkowski, Moore, Mitchell and Wilson voting aye.

Vice Chair Mitchell moved to come out of executive session at 3:20 p.m. Board Member Bain seconded the motion. The motion carried with Kalkowski, Moore, Mitchell, Bain and Wilson voting aye.

Vice Chair Mitchell moved to ratify registered applicant R853.

Vice Chair Mitchell moved to take the following actions for the applicants for the license credential:

L552 – Approve application and select verification report(s).

Vice Chair Mitchell moved to take the following actions for the applicants for the certified residential credential:

CR175 – Approve applicant and select verification report(s).

CR226 – Approve applicant and select verification report(s). Send review comments.

CR332 – Approve applicant and request new log for selection of verification report(s).

CR334 – Deny and request residential < 20 yrs and 2-4 family and \$250 fee.

Vice Chair Mitchell moved to take the following actions for the applicants for the certified general credential:

CG435 – Approve applicant and deny log. Request new log for USPAP-compliant reports and deny credit for non-appraisal experience.

CG438 – Approve applicant and select verification report(s).

CG447 – Approve applicant. Log not completed at this time. Select verification reports

when log has been completed.

CG562 – Deny and request one report demonstrating all three approaches to value and \$300 review fee.

CG569 – Deny and request three new demonstration reports and \$300 review fee.

Vice Chair Mitchell moved to take the following actions for the submission of verification reports:

L554 – Approve for credential.

CR201 – Approve for credential.

CG406 – Approve for credential.

CG422 – Approve for credential.

CG440 – Approve for credential.

Board Member Kalkowski seconded the Motion. Motion carried with Moore, Mitchell, Bain, Kalkowski and Wilson voting aye.

Vice Chair Mitchell moved to take the following enforcement actions:

06-22 – Board Chair sign Consent Agreement and forward copy.

07-08 – Advisory letter concerning record keeping and file maintenance.

07-14 – Board agrees to terms of Consent Agreement.

Send copy Consent Agreement to Blake.

07-16 – Close – Consent Agreement has been met with documents submitted.

07-24 – Offer Consent Agreement. Proceed. Hearing May 16th 10:00 a.m., NSOB

08-03 – Send report and workfile for review. Hold, review not complete.

08-04 – Invite informal conference.

08-06 – Consent Agreement to education to be completed by August 31, 2008.

08-07 – Hold – Review not returned.

08-09 – File and request true copy report and workfile and send to reviewer.

08-10 – File and request true copy report and workfile.

Board Member Bain seconded the Motion. Motion carried with Mitchell, Bain, Kalkowski, Moore, and Wilson voting aye.

Board Member Moore moved to take the following enforcement action:

08-08 – Hold – Review not returned

Board Member Kalkowski seconded the Motion. Motion carried with Bain, Kalkowski, Moore, and Wilson voting aye and Mitchell Abstaining.

Board Member Mitchell moved to take the following enforcement action:

07-22 – Forward Blake – Formal complaint. Engage Hearing Officer Van Pelt.

Board Member Bain seconded the Motion. Motion carried with Kalkowski, Moore, Mitchell, and Bain voting aye and Wilson Abstaining.

Tentative meeting dates were approved as follows:

June 19, 2008

July 17, 2008

August 21, 2008

ADJOURNMENT

At 3:30 Chair Wilson adjourned the April 17, 2008, meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on April 27, 2008, in compliance with Nebraska Statute §84-1413(5).