

**REAL PROPERTY APPRAISER BOARD  
LOWER LEVEL, ROOM "B"  
NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE  
March 19, 2009**

**OPENING**

Chairman Gregg Mitchell called to order the March 19, 2009, meeting of the Nebraska Real Property Appraiser Board at 9:05 a.m., in Lower Level, Room "B" of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

**NOTICE OF MEETING**

Chairman Mitchell 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 R. Gregg Mitchell, Bradford Moore, Mathew 'Joe' Wilson, and David Hartman, were present. Board Member James Bain was absent and excused. Director Kitty Policky was also present.

**ADOPTION OF THE AGENDA**

Chairman Mitchell 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 Moore moved to adopt the Agenda as printed. Board Member Wilson seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Hartman, and Mitchell voting aye.

**WELCOME GUESTS**

Chair Mitchell welcomed the guests to the meeting and asked that they please sign the guest log.

**APPROVAL OF THE MINUTES FROM FEBRUARY 19, 2009**

Chair Mitchell asked for any additions or corrections to the February 19, 2009 minutes. Vice Chair Moore moved to adopt the minutes as presented and Board Member Hartman seconded the motion. With no further discussion the motion carried with Wilson, Hartman, Moore, and Mitchell voting aye.

**CHAIR REPORT**

Chairman Mitchell, Vice Chair Moore and legal representative William Blake met with representatives of the Real Estate Commission and the Nebraska Realtors Association to discuss BPOs and their acceptable use. The discussion relates to an open legal case and will be discussed in closed session. Chair Mitchell referenced the Association of Appraiser Regulator Officials (AARO) correspondence to the Honorable Timothy Geithner, Secretary of the Treasury from the Executive Committee to express concerns about federal regulations and policies that would allow Brokers Price Opinions (BPOs) to be used in establishing real property collateral values for mortgage modifications by unqualified individuals who are not accountable to any valuation oversight entity and who are not held to any valuation standards of professional practice. Such

considerations would prove to be dangerous to the mortgage bailout program, to the financial and banking industry and to the consumer.

Next item was consideration in that most appraisers on RELS panel got a letter offering a new product called a desk top appraisal for a fee of \$45.00. Although the Board does not get involved in fee structuring the concern is related to the “scope of work” product. Fee structure, scope of work and time allocation allows the credential holder to exercise due diligence to comply with USPAP. A reminder from the Board for those who might consider such an assignment that all appraisals must comply with USPAP and the execution of a product such as this would still make it the credential holder’s responsibility to ensure that the scope of work is adequate to produce a USPAP compliant report. This is simply a business decision each appraiser needs to make. The Board discussed parameters for developing a letter advising appraisers that all appraisal reports must comply with USPAP, including desktop appraisals, and the scope of work must be adequate to allow them to comply with USPAP. Vice Chairman Moore reminded members that USPAP would force an appraiser to withdraw if the assignment conditions were such that the assignment could not be completed under the scope of work.

Board Member Wilson set forth a motion to request Vice Chair Moore to create correspondence in the form of an advisory letter to address the appraiser scope of work responsibilities. The advisory will be sent electronically to the appraiser community. Board Member Hartman seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, and Mitchell voting aye.

## **DIRECTOR’S REPORT**

### **1. Monthly appraiser accounting:**

The number of appraisers who have renewed as of March 18<sup>th</sup> stands as follows: 121 Registered/Conversion; 127 Licensed; 197 Certified Residential; and 383 Certified General for a total of 828 appraisers for an increase of 13 appraisers since the February 19<sup>th</sup> meeting.

### **2. Rules & Regulations Committee**

Director Policky requested the Appraiser Board consider the appointment of Sheila Newell, past Board member and Chairman; Diane Moore, certified residential appraiser and education provider; and Cay Lacey, certified general appraiser and certified USPAP instructor to serve on the Rules and Regulations Committee to make the appropriate changes to Title 298, Nebraska Rules and Regulations to reflect the adopted appraiser update guidelines as well as any other adopted policies. Although there has been no new legislation for this year, the changes should be made to the rules and regulations to reflect current policy. A meeting had not been held to date.

### **3. Bunton / White Paper on Appraiser Regulatory Reform**

Director Policky was expecting the results of the White Paper by meeting date but the results are not forthcoming at this time. It will be an item agenda for a future meeting when the Appraisal Foundation forwards an accumulative response.

Information received prior to the meeting involving South Dakota’s passage of appraiser independence legislation is being considered during the Director’s Report. The bill was signed by Gov. Mike Rounds and will go into effect July 1, 2009 referenced as H.B. 1124. This is a bill to prohibit improper influence regarding real estate appraisals by prohibiting certain practices by mortgage brokers including bribery, extortion, coercion, withholding payment for an appraisal

that did not reach a predetermined level, or removing an appraiser from a panel if a requested value is not met. In addition to the mortgage brokers, the bill also prohibits a supervising appraiser in South Dakota from improperly influencing an entry-level appraiser during their initial mentoring period. The legislation also clarifies the types of interactions between a mortgage broker and a real estate appraiser that are considered proper and gives the Appraiser Certification Program, which regulates appraisers, authority to discipline mortgage brokers or appraisers who violate the act.

Appraiser independence legislation, in one form or another, has now been signed into law in 20 states and is being considered in another 21 states according to the Appraisal Institute article reporting the legislation.

The Board will take appropriate steps to formulate regulatory measures and consider all legislation from surrounding states as a consideration in the process of developing policy and regulation. Chair Mitchell noted that all information would be forwarded to a committee to formulate policy and legislation for consideration by the entire Appraiser Board.

In closing, the USPAP Q&A for March was made available. Electronic delivery of the material will be made to the appraiser community. The collection of USPAP Q&A for each month is available on the website.

Director Policky closed the report by thanking the Board for their efforts and concerns.

## **RECEIPTS AND EXPENDITURES REPORT – FEBRUARY 2009**

The receipts and expenditures for February were reviewed by the Director by line item with the Board. A copy of the Budget Status Report is attached and considered part of these minutes. There were no significant expense items. The Director made the appropriate changes to the Budget Status Report as were discussed at the March meeting that included the IT expenses from last year.

Board Member Hartman moved to accept and file the February 2009 Receipts and Expenditures report for audit. Vice Chair Moore seconded the motion. With no further discussion the motion carried with Moore, Wilson, Hartman, and Mitchell voting aye.

## **UNFINISHED BUSINESS**

### **1. Ed Tour / Bradford Moore & Joe Wilson**

Vice Chairman Moore explained to the guests in attendance the plans for resurrecting Ed Tour. Consideration had been given for the week of the September meeting of the Board as a potential date. After discussing the use of Mahoney Park as a potential class site, Chair Mitchell suggested Director Policky make inquiries into the cost of using the Strategic Air & Space Museum and report for the April meeting. Presentation format was the next item of discussion with the spectrum of topics from hour long presentations with the Board occupying at least one of the sessions to contracting an independent instructor for the majority of the session. Inquiries would be made into what is available from the Appraisal Foundation. Topics range from a general Q&A to the introduction of the changes to 10-11 USPAP. Suggestions are to hold Ed Tour at a North Platte location as well as a location such as Mahoney Park or the Strategic Air & Space Museum on Tuesday and Wednesday prior to the Thursday meeting in September. The tour would include

the availability of the Board to answer questions as well as additional education offerings. Moore requested that the item be returned to the April agenda.

Board took a break at 10:17 a.m.

Board meeting reconvened at 10:30 a.m.

## **2. Reply Adam Turek / Appraisal Foundation**

The excitement over the investigator training session to be held in Chicago in November has solicited calls from Nebraska appraisers. Although the Appraiser Board welcomes an interest in the position, the Appraisal Foundation will permit only three representatives from Nebraska and the three allocated positions will be filled by qualified appraisers who require the knowledge to understand and administer the enforcement process. Adam Turek, Programs & Publications Coordinator, has been contacted with a request for additional seating for Nebraska. He responded with little enthusiasm but would keep our request on file for future reference as the planning for the Chicago training is not yet in progress.

## **3. AARO warning letter to FED on the use of BPOs**

Chairman Mitchell referenced the letter from the Association of Appraiser Regulatory Officials. AARO represents forty-eight of the fifty-six jurisdictions mandated by FIRREA to create appraiser licensing agencies. The letter was addressed to the Honorable Timothy Geithner, Secretary of the Treasury from the AARO Executive Committee. The Committee expressed concerns about federal regulations and policies that would allow valuation products such as Broker Price Opinions (BPOs) that are prepared by unqualified individuals who are not accountable to any valuation oversight entity and who are not held to any valuation standards of professional practice to be used in establishing real property collateral values for mortgage modifications. They felt the practice is dangerous to the mortgage bailout program, to the financial and banking industry and to the consumer.

## **4. AMC Legislation**

Chairman Mitchell presented to the Board a request to approve the appointment of John Bredemeyer to chair an appraisal management company legislation task force. Mr. Bredemeyer has agreed to meet the challenge with the Board's support. Vice Chair Moore moved to establish an AMC Task Force with John Bredemeyer as Chairman. Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Hartman, Moore, and Mitchell voting aye.

## **NEW BUSINESS**

### **1. Investigator Training Press Release.**

Director Policky reported that in speaking with Denise Graves from the Appraisal Subcommittee, only the plans for Arizona are in place at this time.

The subject matter referenced in New Business after "Investigator Training Press Release" deals with states and the different approaches to the controversial issue of appraisal management companies and how states have adopted legislation or findings to deal with the imposition of the appraisal management companies.

## **2. Utah Division of Real Estate / Appraisal Management Company Regulation**

Utah is one of the first states to enact laws that will bring appraisal management companies under the regulatory oversight of their state's real estate appraiser board. The law becomes effective May 12, 2009. The law will require registration requirements as well as require AMCs to have a system in place to verify that only licensed or certified appraisers are used and that all appraisals comply with the Uniform Standards of Professional Appraisal Practice (USPAP). Language has been included which will ensure that appraisers are free from inappropriate influence and coercion from AMCs. The law is discussed and considered by the Board for reference and consideration to formulate Nebraska's legislation.

## **3. Adopted Findings by Illinois Real Estate Board / AMC**

On March 10, 2009 the Illinois Real Estate Appraisal Board adopted five findings. These findings represent the Board's interpretation of USPAP and Illinois Law. The Board intends to fully implement the findings on September 1, 2009. The findings and their interpretations were sent to appraiser boards and individuals with an interest in an interpretation and are as follows: 1. deals with the issue of who is the client – an AMC or a lender; 2. this finding deals with "agency"; 3. disclosure of appraisal fees; 4. "out of state" appraisers to "review" appraisals produced by certified Illinois appraisers; and 5. this finding is meant to deal with the issue of an appraiser being knowledgeable of an AMC altering a true copy of the appraisal report when delivering it to the intended user.

## **4. RELS "phased" appraisal process"**

The Board discussed the "phased" appraisal process from RELS dated March 5, 2009 that begins with a \$45 desktop appraisal report. RELS is jointly owned by Wells Fargo and First America, companies who stand to profit from these discount appraisals. Discount appraisal fees and rushed reporting, especially in the current economic market, is inadequate to allow the appraiser the ability to provide an accurate and reliable appraisal report. The article, which appeared in "Appraisal Scoop" quotes Ron Strickelman, Jr. in his solicitation of approximately 20,000 appraisers by email asking for their support and encouragement efforts through a petition as well as a call to action by appraisers. Considering Wells Fargo is subject to federal regulation and this type of activity is prohibited under FIRREA it leads us all to ask who is monitoring this type of reckless activity.

## **5. Appraisal Foundation / AQB Guide Note 7 (GN-7)**

The AQB Guide Note 7 relates to the graduate degree program in Real Estate reviewed by the AQB and their applicability towards the qualifying education specified in the "Required Core Curriculum." The consensus of the AQB that graduate holders in real estate-related studies have already invested significant post-baccalaureate effort to become educated in core real estate and appraisal subject matter was the basis for viewing the addition of the core curriculum as redundant and counter-productive. It is required that the education requirements obtained via the completion of a graduate, masters, or doctoral degree in Real Estate from an accredited college or university approved by the American Association of Collegiate Schools of Business, or a regional or national accreditation agency recognized by the U.S. Secretary of Education will be accepted provided that the college or university has had its curriculum reviewed and approved by the AQB on a case by case basis. Chair Mitchell noted that the decision of Guide Note 7 will put the responsibility of proposing a graduate curriculum that is acceptable to meet the required core curriculum from the University of Nebraska-Omaha under their discretion and submission to the AQB for approval.

Chairman Mitchell continued with comments concerning the undergraduate program. The adopted policy of the Board does not change in requiring all core curriculum education to be AQB approved. It would best serve the undergraduate program by a university or college to develop a curriculum and submit that curriculum to the AQB for approval.

#### **6. Violation of rules and regulations by education providers**

The violation of rules and regulations by education providers by not meeting the requirements of teaching both core curriculum and continuing education was considered. The purpose of the rules and regulation requirements is consistency and accountability to the Appraisal Subcommittee as well as the student. The goal of the Board is to solicit a positive result and compliance. A copy of the Rules and Regulations in regards to the education requirements was presented to the Board along with a copy of the approval letter for education offerings sent to each education provider the Board approves.

Consideration for all circumstances, Director Policky presented procedures to deal with approved education provider violations. The procedures were discussed at length and the Board proposed the following guidelines: 1. Education providers who fail to meet the Rules and Regulations requirements for approved education shall be given notice by certified mail that they have 30 days to meet such obligations – Board of Education notification; 2. Failure to meet the Rules and Regulations after the 30 days notice shall result in a 90-day suspension of all approvals for education offerings following Board approval. Suspension will be published on the NRPAB education schedule to prevent students from completing education for which they will not receive credit – Board of Education notification; 3. Failure to meet the obligations after a 90-day suspension shall result in suspension of all rights and privileges for education offerings for a period of up to one year following Board approval – Department of Education notification; and 4. Failure to meet obligations after a suspension may result in termination of all rights and privileges following Board approval – Department of Education notification.

Board Member Wilson moved to approve the procedures for education provider violations. Board Member Moore seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, and Mitchell voting aye.

Board took a break at 11:50 a.m.

Board meeting reconvened at 12:03 p.m.

#### **GENERAL PUBLIC COMMENTS**

Chair Mitchell asked for any public comments. With no comments, the Chair proceeded to education.

#### **EDUCATION**

Board Member Wilson moved to approve the following new continuing education seminars and respective instructors as listed:

*Continuing Education New:*

##### **1. Appraisal Institute, Chicago:**

A. “General Appraiser Income Approach/Part 1” – 27-hours – C2778

Instructors: Gary P. Taylor & Ron DeVries

- B.       *“General Appraiser Income Approach / Part 2”* – 27-hours – C2779  
            Instructor: Gary P. Taylor

**2. Randall School of Real Estate, Omaha:**

- A.       *“Underwriting Commercial Loans”* – 3 hours – C2921  
            Instructor: Stephen Ruff

**3. National Highway Institute, Florida:**

- A.       *“Appraisal Review for Federal-Aid Highway Program”* – 11 hours – C2922  
            Instructors: Robert Kleinburd & Thomas A. Anderson

Vice Chair Moore seconded the motion. With no further discussion the motion carried with Moore, Wilson, Hartman, and Mitchell voting aye.

Chairman Mitchell thanked those in attendance for their input and interest.

**APPLICANTS & ENFORCEMENT**

Vice Chair Moore 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 12:04. Board Member Wilson seconded the motion. The motion carried with Wilson, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 1:06 p.m. Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to take the following action for the applicant for the Supervisor / Trainee:

ST102: Approved. Continuing Education due date March 19, 2011.

Vice Chair Moore moved to take the following action for the Registered applicants:

R856: Approve candidate to sit for examination following enforcement.

Vice Chair Moore moved to take the following action for the applicants for reciprocity:

CG887 – Approve.

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

Vice Chair Moore moved to take the following enforcement actions:

08-04 Request information to proceed.

08-21 Approved Cease & Desist for Respondent. Send by certified mail.

08-22 Approved Cease & Desist for Respondent. Send by certified mail.

- 09-03 Reports delivered to Board as requested. Advisory Letter. Close.
- 09-04 Received Standard 3 review. Report did not meet minimum standards of USPAP. Invite informal.
- 09-06 Violation of Neb. Rev. Stat. §76-2238(20). Did remit funds plus treasurer's fee. Allow candidate to sit for exam. Close.
- 09-07 Request true copy of report and workfile.

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

Vice Chair Moore proposed to take the following enforcement action:

- 08-23 – Invite informal conference. Hold until April meeting for further action.
- 09-02 – Received Standard 3 review. Report did not meet minimum standards of USPAP. Invite informal conference.

Board Member Wilson seconded the motion. Motion carried with Moore, Wilson, and Hartman voting aye. Chairman Mitchell abstained.

Vice Chair Moore proposed to take the following enforcement action:

- 09-08 Request true copy of report and workfile.

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

Tentative meeting dates were approved as follows: May 21, 2009  
June 18, 2009  
July 16, 2009

## **ADJOURNMENT**

Vice Chair Wilson moved to adjourn the March 19, 2009 meeting. Board Member Hartman seconded the motion. Motion carried unanimously.

At 1:10 p.m. Chair Mitchell adjourned the March 19, 2009 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on April 1, 2009, in compliance with Nebraska Statute §84-1413(5).