

**REAL PROPERTY APPRAISER BOARD
LOWER LEVEL, ROOM "B"
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE
May 21, 2009**

OPENING

Chairman Gregg Mitchell called to order the May 21, 2009, meeting of the Nebraska Real Property Appraiser Board at 9:02 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 James Bain, were present. Board Member David Hartman will be late but will be present. 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, Bain, 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 APRIL 16, 2009

Chair Mitchell asked for any additions or corrections to the April 16, 2009 minutes. Vice Chair Moore moved to adopt the minutes as presented and Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Bain, Moore and Mitchell voting aye.

CHAIR REPORT

Chairman Mitchell reported that John Bredemeyer was working on the Appraisal Management Companies issue and more information would be available for the June meeting.

Chairman Mitchell addressed an issue concerning the topic of who is the client and who should be stated in the report as the client. The AMC state that "although we are hiring you, your client is ABC Bank." USPAP defines the client as "the party or parties who engage an appraiser (by employment or contract) in a specified assignment." Since the Appraisal Management Company (the client), at time of assignment, identifies another party by name as a user of the appraisal report (an intended user), both the client and the intended user must be identified in the report.

AMC acting as the agent for a lender, the AMC needs to have an agency agreement. There is the question of confidentiality if the AMC does not want to be listed on client line. There is conflict in the form reporting. The language that says the client is identified as the lender but the engaging entity is ABC Management Company and is also an intended user of the report. Lastly, HVCC borrowers get the report three days before close. Lines of communication are not always understood and there appears to be a clear confidentiality issue. Most companies have policies regarding communication but those companies who do not have a clear policy will face confidentiality issues.

The Illinois Real Estate Appraiser Board addressed the Client and Intended User in Finding One: “USPAP Standards rule 2-2 (a) and (b) require the appraiser, in self-contained and summary appraisal reports, at a minimum to state the identity of the client and any intended users, by name or type . . . With the growing influence of Appraisal Management Companies (AMC’s) acting as agents, it has become clouded as to how to deal with this issue within an appraisal report. Typically, an AMC will order an appraisal on behalf of one of their clients. The question then becomes, who is the client . . . USPAP defines the client as . . . The Board has concluded the AMC is the party engaging the appraiser and is therefore the client . . . Since the AMC (the client), at time of assignment, identifies another party by name as a user of the appraisal report (an intended user), both the client and the intended user must be identified in the report. . . Suggested disclosure of client/intended user relationship (“ABC Inc.” is the AMC=client; “XYZ Bank” is identified by the client to the appraiser as an additional Intended User); Client: “ABC Incorporated” . . . Additional Intended User: “XYZ Bank.”

Uniform guidance needs to be addressed. Chairman Mitchell volunteered to develop an advisory memo. Vice Chair Moore moved to approve the development of an advisory memo to credential holders in regard to AMCs concerning the client, intended use and user, appropriate disclosure whether the borrower is the intended user, and a suggestive communications policy. The memo will be forwarded electronically to each appraiser and displayed on the website for future reference. Board Member Wilson seconded the motion. Without further discussion, the motion carried with Bain, Moore, Wilson, and Mitchell voting aye.

DIRECTOR’S REPORT

Monthly appraiser accounting:

The number of appraisers for April stands as follows: 122 Registered/ Conversion; 127 Licensed; 197 Certified Residential; and 386 Certified General for a total of 832 appraisers. There has been no change in the number of appraisers from the April accounting.

Performance Evaluation:

The end of the fiscal year is fast approaching and the time has passed quickly but it is again the time to evaluate the director. Please find copies of the performance evaluation and make preparations to address the evaluation in June. Personnel will be added to June’s meeting agenda.

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

RECEIPTS AND EXPENDITURES REPORT – APRIL 2009

The receipts and expenditures for April 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.

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

UNFINISHED BUSINESS

1. Ed Tour / Bradford Moore & Joe Wilson

Director Policky announced that the Appraisal Foundation has offered John Brenan, Director of Research and Technical Issues as the speaker for Ed Tour. Topics range from a general Q&A to the introduction of the changes to 10-11 USPAP. The tour would include the availability of the Board to answer questions.

An accounting of expenses for Ed Tour beginning in 1994 to 2003 were made available to members with the advise that this Board does not have the money to foot a bill in the amount of three thousand to seven thousand in cost. The offering of one session and the locations within driving distance should keep expenses in an acceptable range. A format for an itinerary was presented to the Board for comment.

As requested, Director Policky contacted Nancy Mock at the Strategic Air & Space Museum to confirm a reservation for the ConAgra Theater for a fee of \$495.00 on September 16th. It was also understood that the cost for the use of the theater also includes the entrance fee for those attending the event. Although there are vendors available at the facility, the Museum has an open catering permit and provided a listing of caterers we could consider for more than snacks. It was also confirmed with Tom Gorman at North Platte Community College that the theater would be reserved for the educational offering on Tuesday, September 15th at minimal cost.

After discussion concerning the costs to produce Ed Tour, Chairman Mitchell requested a motion for a fee for Ed Tour. Board Member Wilson proposed a fee of \$50.00 and 4 hours of continuing education credit. Board Member Bain seconded the motion. With no further discussion the motion carried with Wilson, Bain, Moore, and Mitchell voting aye.

Board Chair Mitchell reviewed the proposed itinerary for the sessions addressing the topics and requesting that a sack lunch be provided for the half hour noon break.

Ed Tour will be returned to the June meeting agenda for further planning.

Board Member Dave Hartman joined the meeting.

Board took a break at 10:07 a.m.

Board meeting reconvened at 10:22 a.m.

2. Rules & Regulations Committee

The Board approved committee members Sheila Newell, Cay Lacey, and Diane Moore presented changes to Title 298, Nebraska Rules and Regulations. The changes would reflect the adopted appraiser update guidelines as well as all other adopted policies by the Board. The committee addressed changes concerning the Appraisal Management Company issues and the Director added the policy changes that had been adopted by the Board. The changes and additions were

discussed, edited, and a final combined effort was produced. The combined changes to Title 298, Nebraska Rules and Regulations were sent to the attorney general's office for review. Attorney Natalee Hart will review the efforts as approved by the Board and return changes for the June meeting prior to submission to the Attorney General's office for approval prior to advertising the public notice.

3. Code of Conduct

Vice Chairman Moore distributed to members a copy of a proposed "Appraisal Management Company Code of Conduct." The purpose of the code of conduct was to give the Appraiser Board consideration as to where to start on the issues surrounding the Appraisal Management Companies and to prepare for upcoming legislation. Although a task force has been formed, Vice Chairman Moore wanted to present concerns for the Board to keep in mind when formulating the statute approach to the AMC issues. The Board was asked to read the "Appraisal Management Company Code of Conduct" and return the item to the June agenda for consideration.

Board took a break for lunch at 12:12 p.m.

Board meeting reconvened at 12:35 p.m.

NEW BUSINESS

1. Appraisal Subcommittee official notification for audit.

Director Policky distributed to each member official notice by the Appraisal Subcommittee that as pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, a scheduled field review of the Nebraska real estate appraisal regulatory program has been scheduled for August 18-20, 2009. The official notification included a request for a listing of all materials for review prior to arrival. The field review will be conducted by Ms. Kristi Klamet and Ms. Jenny Tidwell.

Chairman Mitchell noted how knowledgeable and valuable the exit interview was after our last scheduled field review in 2007 in assisting regulatory agencies such as this Board in meeting federal guidelines.

2. 2009-10 AMP Contract

Director Policky presented to each member a copy of the new 2009-10 contract with Applied Measurement Professionals, Inc. (AMP) for testing of candidates. The contract varies only in the amount charged for the examinations. The current cost to a candidate is \$110.00 and will increase to \$130.00. The contract is effective from July 1, 2009 through June 30, 2010. Board Member Wilson moved to accept the 2009-10 AMP contract and request the Chairman sign the contract as presented. Board Member Bain seconded. With no further discussion, the motion passed with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

3. National Uniform Licensing and Certification Examinations

The AQB published an update concerning the examinations as administered to potential candidates. Three forms of each examination (licensed residential, certified residential, and certified general) were put into use. These examinations were developed over the prior 12 to 18 months by Subject Matter Experts (SME's) under the direction of the AQB, along with the AQB's examination development contactor, Comira.

Analysis of the examination results for the first six months of 2008, minor modifications were made to existing forms and three slightly revised forms of each exam were implemented as of July 1, 2008. Analysis of the examinations will take place in 2009 and three more forms of the examination will be implemented as of January 1, 2010.

The AQB monitored the exam rates throughout 2008 and continues to do so. Nationally, the pass rates during the first six months of 2008 were extremely low. However, this was due primarily to the candidates taking the examinations with qualifications based on pre-2008 qualifying education requirements and noted the pass rate between those with pre-2008 education and those with 2008 education is dramatic. The pass rate will continue to rise as candidates meet the 2008 requirements.

In summary the AQB feels the *National Uniform Licensing and Certification Examinations* are performing exactly as intended but nevertheless, the AQB, along with exam consultant, Comira, will continue to monitor the performance of the exams on an ongoing basis, to ensure the exams are fair and equitable.

5. AQB Meeting / Guide Note 8 / Interpretation Criteria degree-granting

Discussion concerning Guide Note 8 and an interpretation. Guide Note 8 deals with the issue of foreign degrees. The *Real Property Appraiser Criteria* requires and references US-based college degrees and education. Guide Note 8 is intended to address individuals with foreign degrees that such individuals obtain an equivalency review from an accredited degree-granting domestic college/university and that state appraiser regulatory agencies accept the review.

Board Member Bain proposed a motion to accept college-level education completed at a foreign degree-granting college or university, if that education has been evaluated and deemed equivalent by an accredited degree-granting U.S. college or university. Board Member Hartman seconded the motion. With no further discussion, the motion carried with Hartman, Moore, Wilson, Bain, and Mitchell voting aye.

6. AQB Guide Note 5

The Board discussed the intent of Guide Note 5 indicating that the current rules and regulations recognize credentials for reciprocity, temporary, renewals or new if the applicant meets the qualifications of that credential and passed an AQB approved examination without having to meet the 2008 AQB criteria.

Board Member Bain proposed a motion to accept existing credential holders in good standing in any jurisdiction shall be considered in compliance with current Appraiser Qualifications Board criteria if they have passed an AQB approved qualifying examination for that credential and have held that credential in good standing for a period of two years. Board Member Hartman seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Bain, Hartman, and Mitchell voting aye.

7. AQB Guide Note 7

The Board discussed the intent of Guide Note 7. Board Member Bain proposed a motion to allow graduates with masters or doctoral degrees in Real Estate from approved, accredited colleges or universities whose programs have been reviewed by the AQB, to have their degree(s) satisfy the applicable portions of the qualifying education *Required Core Curriculum* for the various

credentials. Board Member Hartman seconded the motion. With no further discussion, the motion carried with Wilson, Bain, Hartman, Moore, and Mitchell voting aye.

GENERAL PUBLIC COMMENTS

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

EDUCATION

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

Continuing Education New:

1. Appraisal Institute, Chicago, IL:

- A. “ONLINE / Valuation of Green Residential Properties” – 7-hours – C2860-I
Instructor: Alan F. Simmons
- B. “Introduction to Conservation Easement Valuation” – 7-hours – C2943
Instructor: Frank Harrison

2. NE Dept. of Revenue/Property Assessment Division, Lincoln, NE:

- A. “08-09 National USPAP Update Seminar” – 7 hours – C2901
Instructors: AQB approved instructor/Barry Couch

3. CLE International, Denver, CO:

- A. “2009 Nebraska Water Law Conference” – 11 hours – C2906
Instructors: Listed on submission

4. McKissock LP, Warren, PA:

- A. “ONLINE Current Issues in Appraising” – 7 hours – C2944-I
Instructor: Richard McKissock
- B. “ONLINE Introduction to Expert Witness Testimony” – 7 hours – C2818-I
Instructor: Richard McKissock
- C. “ONLINE Ad Valorem Tax Consultation” – 3 hours – C2945-I
Instructor: Richard McKissock

Continuing Education Renew:

1. Appraisal Institute, Chicago, IL:

- A. “Forecasting Revenue” – 7-hours – C2644
Instructor: Ted W. Anglyn

2. McKissock LP, Warren, PA:

- A. “ONLINE Appraising Historic Properties” – 4 hours – C9722-I
Instructor: Richard McKissock

Board Member Wilson seconded the motion. With no further discussion the motion carried with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to deny the following continuing education seminars and respective instructors as listed:

NE Dept. of Revenue/Property Assessment Division, Lincoln, NE:

- B. “Assessment Administration/IAAO Course 400” – 30 hours – C0170
Instructors: Rick Stuart
- C. “Property Tax Policy / IAAO 402” – 30 hours – C9714
Instructors: Alan Dornfest

Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Bain, and Mitchell voting aye.

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

5. The Moore Group, Lincoln, NE:

- A. “Writing Effective Narrative Reports” – 7 hours – C2985
Instructor: Cay Lacey
(Commercial Report Writing Update)
- B. “The FHA Appraiser: Thriving and Surviving” – 7 hours – C2913
Instructors: Bradford Moore & Diane Moore

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

Chairman Mitchell thanked those in attendance for their input and interest as the Board prepared to go into closed session.

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 for individuals who have not requested a public meeting. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of credentials or qualified applicants and relating to the alleged violations of performance in real property appraisal practice and also to discuss pending litigation or litigation which is imminent with our attorney from the Nebraska Attorney General’s Office, who has received a threat of litigation against the Appraiser Board. The time on the meeting clock was 1:25 p.m. Board Member Wilson seconded the motion. The motion carried with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 2:42 p.m. Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Bain, and Mitchell voting aye.

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

- ST203: Approved. Continuing Education due date May 21, 2011.
- ST204: Denied. Request letter of intent outlining a plan to effectively train and supervise.

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

- R857 / Approve. Submit for examination.
- R858 / Approve. Submit for examination.

R859 / Approve. Submit for examination.
R860 / Approve. Submit for examination.
R861 / Approve. Submit for examination.
R862 / Approve. Submit for examination.
R863 / Approve. Submit for examination.

Vice Chair Moore moved to take the following action for the License applicant:

L584 / Approve education and log. Request selected reports and submit for review.

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

CR350 / Approve education and log. Request selected reports and submit for review.

CR351 / Approve. Accept credentialing criteria from Illinois prior to January 1, 2008.

30 hours income and USPAP documents and document of good standing. Passed AQB approved examination.

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

CG589 / Approve. Accept credentialing criteria from Kansas prior to January 1, 2008.

30 hours income and USPAP documents and document of good standing.

Passed AQB approved examination.

CG590 / Approve. Accept credentialing criteria from Iowa prior to January 1, 2008.

30 hours income and USPAP documents and document of good standing.

Passed AQB approved examination. MAI designation.

CG591 / Approve. Accept credentialing criteria from Missouri prior to January 1, 2008.

30 hours income and USPAP documents and document of good standing.

Passed AQB approved examination. MAI & SRA designations.

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

Vice Chair Moore moved to take the following enforcement actions:

06-22 Send notice that education must be complete by Nov. 30th and report submission completed by Dec. 31st.

08-13 Terms of Consent Agreement have been met. CLOSE.

08-15 Requested selected quarterly report for review. Board reviewed and accepted.

08-19 Terms of Consent Agreement have been met. CLOSE.

08-22 Litigation

08-23 Signed Consent Agreement returned. Board Chair sign.

09-10 Request true copy of report and workfile. Send for Standard 3 review.
Field review.

09-11 Request true copy of report and workfile. Send for Standard 3 review.

09-12 Request true copy of report and workfile. Send for Standard 3 review.

09-13 Request true copy of workfile. Send for Standard 3 review.

09-14 Request true copy of report and workfile. Send for review.

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

Vice Chair Moore proposed to take the following enforcement action:

09-07 Report does not meet minimum USPAP guidelines. Invite informal conference.

09-08 Report does not meet minimum USPAP guidelines. Invite informal conference.

09-09 Report does not meet minimum USPAP guidelines. Invite informal conference.

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

Vice Chair Moore proposed to take the following enforcement action:

09-02 Signed Consent Agreement returned. Board Chair sign.

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

Tentative meeting dates were approved as follows: August 20, 2009
September 17, 2009
October 15, 2009
November 19, 2009
December 17, 2009

ADJOURNMENT

Chairman Mitchell moved to adjourn the May 21, 2009 meeting. Board Member Bain seconded the motion. Motion carried unanimously.

At 2:50 p.m. Chairman Mitchell adjourned the May 21, 2009 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

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