

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

September 17, 2009

OPENING

Chairman Gregg Mitchell called to order the September 17, 2009, meeting of the Nebraska Real Property Appraiser Board at 8:00 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, Matthew 'Joe' Wilson, and David Hartman were present. Director Kitty Policky was also present. Board Member Bain was absent and excused

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. According to the Nebraska Real Property Appraiser Act §76-2222 (4) "Four members shall constitute a quorum . . ." Given prior notice that Board Member Bain would be absent and excused from the September 17th meeting and Board Member David Hartman would need to leave for a meeting around 11:00 a.m., Director Policky requested the closed session be moved to the beginning of the agenda as the items require a vote. Board Member Wilson moved to adopt the Agenda to include a request by Director Policky to move the closed session to the beginning of the agenda items. Vice Chair Moore seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Bain, Hartman, and Mitchell voting aye.

WELCOME GUESTS

Chair Mitchell welcomed the guests to the meeting and asked that they please sign the guest log and announced the closed session of the meeting would follow.

APPLICANTS & ENFORCEMENT / CLOSED SESSION

Board Member Wilson 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. The time on the meeting clock was 8:02 a.m. Board Member Hartman seconded the motion. The motion carried with Moore, Wilson, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 9:07 p.m. Board Member Wilson seconded the motion. The motion carried with Wilson, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to take the following action Licensed applicant by reciprocity:
L585 / Reciprocity candidate submitted proof of latest USPAP course. Passed AQB approved examination. Nebraska has agreement with South Dakota. Approve for reciprocity credential. Include Scope of Practice.

Vice Chair Moore moved to take the following action for the Certified Residential applicants:
CR353 / Candidate has met all qualifications for CR applicant. Approve for credentialing.
CR354 / Candidate has met all qualifications for CR applicant. Approve for credentialing.
CR355 / Selected appraisal reports accepted. No Pass/Fail exam report has been submitted to date. Approve to credential when Pass report has been submitted.
CR356 / Deny applicant. Select a residential <20 years and a 2-4 family for Review. \$250.00 review fee.
CR357 / Log correction has been submitted. Select residential <20 years from log. Send all three selections for Standard 3 Review.
CR358 / Deny applicant. Reports did not meet minimum USPAP requirements. Select three (3) appraisal reports for a residential <20 years; residential >20 years and a 2-4 family and approve for Standard 3 Review. \$250.00 review fee.
CR359 / Deny applicant. Reports met minimum USPAP requirements but no report demonstrated the cost approach. Request applicant submit selected report >20 years with a demonstration of understanding of cost approach and depreciation.
CR360 / Selected appraisal reports accepted. No Pass/Fail exam report has been submitted to date. Approve to credential when Pass report has been submitted.
CR361 / Select three (3) appraisal reports for a residential <20 years; residential >20 years and a 2-4 family and approve for Standard 3 Review. Approve to submit for examination.
CR362 / Select three (3) appraisal reports for a residential <20 years; residential >20 years and a 2-4 family and approve for Standard 3 Review. Approve to submit for examination.

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

Vice Chair Moore moved to take the following enforcement actions:
06-22 Hold. Education must be completed by Nov. 30th and report submission completed by Dec. 31st.
08-11 Hold / Board granted extension for education until October 28, 2009.
08-22 Hold. Litigation. Filing by Attorney General's office.
09-13 Consent Agreement: 2-day National USPAP; 30 hour General Appr. Report Writing & Case Studies; downgrade to certified residential until complete education. Board Chair sign Consent Agreement.
09-15 Request log for two years prior 9/17/2007 to 9/27/2009.
09-17 Report meets minimum USPAP. Dismiss. Close.
09-18 Report did not meet minimum USPAP requirements. Invite informal conference.

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

Vice Chair Moore moved to take the following enforcement action:

09-07 Hearing. Formal complaint filed.

09-09 Hearing. Formal complaint filed.

Board Member Wilson seconded the motion. The motion carried with Moore, Wilson and Hartman, voting aye. Board Member Wilson abstained. Meeting returned to order of Agenda with open session.

OPEN SESSION /APPROVAL OF THE MINUTES FROM AUGUST 20, 2009

Chair Mitchell asked for any additions or corrections to the August 20, 2009 minutes. With no corrections or additions Vice Chairman 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, Hartman, Moore, and Mitchell voting aye.

CHAIRMAN'S REPORT

Chairman Mitchell thanked Board members as well as Director Policky for what appeared to be a very successful Ed Tour 2009. Since Ed Tour was scheduled for Tuesday and Wednesday with the Board meeting on Thursday, the final calculations are not available but should be compiled by the October meeting.

Considering the time constraints surrounding the meeting, Chairman Mitchell proceeded with the agenda.

DIRECTOR'S REPORT

The number of appraisers for September stands as follows: 133 Registered/ Conversion; 127 Licensed; 200 Certified Residential; and 389 Certified General for a total of 849 appraisers. The accounting includes the totals for September of 2008 with a total of 903 appraisers. A significant number of appraisers have achieved an upgraded credential and with the FHA requirement as certified to perform FHA appraisals. The appraisers continue to upgrade to certified credentials.

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

RECEIPTS AND EXPENDITURES REPORT – AUGUST 2009

The receipts and expenditures for August were reviewed by the Director by line item with the Board. A total of \$18,382.75 included the purchase of new chairs and a file cabinet as well as the expense for the AARO registration. The receivables totaled \$4,175.09. A copy of the Budget Status Report for the first month of the fiscal year is attached and considered part of these minutes.

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

Unfinished Business

1. Ed Tour / North Platte & SASM

Director Policky reported the success of Ed Tour and would make available the accounting reports as well as the evaluations for each session at the October meeting.

2. Real Property Appraiser Act

The combined changes to the Real Property Appraiser Act included the AMC legislation. The proposed changes that were initially made as a result of adding §76-2251 were discussed and edited to clarify the definitions and changes. The changes to the statutes are required to address the new 2010-2011 USPAP reference and although the update criteria has been adopted as policy by the Board, the changes to the statutes will officially reflect the requirements to upgrade a credential. A few additional housekeeping changes were made to the statutes. With no further discussion, Chairman Mitchell called for a motion. Vice Chairman Moore proposed a motion to accept the changes to the statutes. Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, and Mitchell voting aye.

NEW BUSINESS

1. LB322 Implementation

Director Policky distributed to each Board member a copy of the ABC Memo from Carlos Castillo, Jr., Director of Administrative Services concerning the implementation of LB322. On May 13, 2009, Governor Heineman signed into law Legislative Bill 322 which made several changes to Nebraska's nepotism law, which applies to officials and employees in the executive branch of State government. Unless authorized by an agency head, the law now prohibits state executive branch officials and employees from engaging in nepotism and from supervising a family member. Director Policky dispersed copies of the implementation to Board members as simply informational material. No action was necessary.

2. Appraisal Foundation / AQB Interpretation Qualifying Education

An Exposure Draft of an Interpretation applying to the "Real Property Appraiser Qualification Criteria" was handed out to members for future consideration. The intent of the document is to obtain comments from appraisers, users of appraisal services, regulator, academicians, and the public. The Exposure Draft encourages written comments be sent to the Appraisal Foundation concerning the criteria applicable to the certified residential and certified general real property classifications in consideration of the requirement to obtain either an Associate degree for certified residential or Bachelors degree (certified general), or in lieu thereof, are required to obtain college credit in specific subject matter courses from accredited, degree-granting institutions. The in lieu education equates to 21 credit hours covering seven subject course topic areas for the certified residential credential, and 30 hours covering ten subject matter course topic areas for the certified general credential.

3. Attorney General Opinion

The Attorney General's office forwarded a letter in regard to the use of the "cease and desist" provision of Neb. Rev. Stat. §76-2223. The letter was signed by Attorney General representative Natalee Hart. The letter strongly recommends the Board use the "cease and desist" orders in only extreme circumstances in which no other method of contact has been successful. Natalee further recommended that if the Board feels strongly about a non-credentialed person or entity violating the Act, the provisions of Neb. Rev. Stat. §76-2246 would provide the appropriate remedy making the violation a misdemeanor criminal offense and forwarding the enforcement action to the County Attorney in the appropriate county in which the alleged violation occurred.

4. Advisory Letter / Predetermined Opinion/Conclusion

A draft of an advisory opinion, developed by Board Member Moore, was presented to the Board in consideration of prior discussion, comments, and questions from appraisers concerning the acceptance of appraisal and review assignments in which the client requires the appraiser use a predetermined opinion of value, direction of value or conclusion in conjunction with the valuation of mineral rights. Review of the advisory opinion by Board members received no changes or comments.

Chairman Mitchell thanked Vice Chair Moore for his efforts and requested the advisory opinion be electronically distributed to the appraiser community. Board Member Wilson proposed a motion to accept the advisory opinion and distribute the advisory opinion electronically. Board Member Hartman seconded the motion. With no further discussion, the motion passed with Moore, Wilson, and Hartman, and Mitchell voting aye.

5. Notice Bobbitt & Co. / IDECC approval

Director Policky notified the Board that Kristi Klamet from the Appraisal Subcommittee had sent notice to states concerning the online education as offered by Bobbitt & Co. Although Nebraska does not require AQB/CAP approval for continuing education, Kansas does require AQB/CAP approval for online education. Under CAP guidelines, each secondary provider is required to have their own IDECC approval, even if the course is “housed” with the primary provider, the secondary provider is still responsible for ensuring adequate student-to-instructor interaction (including having their own instructors) and must have IDECC approval.

Bobbitt & Co. has notified Nebraska that only one appraiser has completed online education. Nebraska does not require secondary IDECC approval because online education or continuing education is not required to be AQB/CAP approved. Nebraska requires only core curriculum education to be AQB/CAP approved.

Director Policky expressed concern for Kansas and explained that the requirements are becoming so extensive that even a conscious effort to maintain federal and state guidelines is overwhelming. It would be easy to find oneself in the same position as Kansas.

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 continuing education seminars and respective instructors as listed well as the requested text change:

Continuing Education New:

1. Appraisal Institute, Chicago, IL:

- A. “Appraisal Curriculum Overview / Residential” – Online / 8-hrs. – C2857-I
Instructor: Mark Rattermann
- B. “Site Use & Valuation Analysis” – Online / 6-hours – C2953-I
Instructor: Arlen C. Mills

2. McKissock, LP, Warren, PA:

- A. “How to Analyze & Value Income Properties” – Online / 7 hours – C2963-I
Instructor: Bruce Coin

3. Appraisal University, LLC, Portsmouth, NH:

- A. “Practical Application of the Cost Approach” – Online / 4 hours – C2716-I
Instructor: John M. Hauschildt

Continuing Education Renewal:

1. Appraisal Institute, Chicago, IL:

- A. “Appraising Manufactured Housing” – 7 hours – C9963
Instructor: Richard Heyn
- B. “Scope of Work” – 7 hours – C2609
Instructor: Richard Heyn
- C. “Office Building Valuation: A Contemporary Perspective” – 7 hours – C2646
Instructor: Dr. Barrett A. Slade
- D. “Quality Assurance in Residential Appraisals” – 7 hours – C2645
Instructor: Mark Rattermann

Instructor Approval:

1. Midwest Appraisers Association:

- A. “FHA – Current Appraisal Requirements” – 7 hours – C2318
Instructor: Ann Susko
- B. “Residential Report Writing Skills” – 7 hours – C2849
Instructor: Dale Morrison

Core Curriculum Education New:

1. Trans-American Institute of Professional Studies, Inc., Kearney, NE:

- A. “Advanced Residential Applications and Case Studies” – 15 hours – CR008
Instructors: Lynne Heiden
Danny Stoeber
- B. “Mastering Unique & Complex Appraisal” – 20 hours – QE2804
Instructors: Lynne Heiden
Danny Stoeber

New Textbook (Hondros) Submissions for Trans-American Institute of Professional Studies, Inc., Kearney for the AQB/CAP Approved Courses as follows:

- A. “Residential Sales Comparison & Income Approaches” L/CR006**
- B. “Statistics, Modeling, Finance” CR/CG009**
- C. “Residential Report Writing” L/CR007**
- D. “Residential Site Valuation & Cost Approach” L/CR005**
- E. “Residential Market Analysis & Highest and Best Use” L/CR004**
- F. “Basic Appraisal Procedures” Q002**
- G. “Basic Appraisal Principles” Q001**

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

Board Member Wilson moved to approve the following continuing education seminar and respective instructor:

1. Moore Group, Lincoln, NE:

- A. "Introduction to the HP12C Calculator" – Online / 7 hours – C2914-I
Instructor: Bradford Moore

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

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

ADJOURNMENT

Vice Chair Moore moved to adjourn the September 17, 2009 meeting. Board Member Wilson seconded the motion. Motion carried unanimously.

At 11:38 a.m. Chairman Mitchell adjourned the September 17, 2009 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on September 25, 2009, in compliance with Nebraska Statute §84-1413(5).