

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

22 April 2010

OPENING

Chairman Gregg Mitchell called to order the April 22, 2010 meeting of the Nebraska Real Property Appraiser Board at 9:08 a.m., in Room "B" on the lower level 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 Bradford Moore, Matthew 'Joe' Wilson, Philip Barkley, and R. Gregg Mitchell were present. Board Member Hartman 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 Barkley seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Barkley, and Mitchell voting aye

WELCOME GUESTS

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

OPEN SESSION /APPROVAL OF THE MINUTES FROM MARCH 18, 2010

Chairman Mitchell asked for any additions or corrections to the March 18, 2010 minutes. With no additions or corrections Vice Chairman Moore moved to adopt the minutes as presented. Board Member Barkley seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Moore, and Mitchell voting aye.

CHAIRMAN'S REPORT

Chairman Mitchell reflected upon the events of the last month in assessing the bottom line with the Governor's signature on LB931. Perhaps the only saving thing with the passage of LB931 was placing the BPO and CMA legislation in the Real Estate License Act. These evaluations will be regulated by the Real Estate Commission as they have the oversight capabilities that the Appraiser Board did not have.

An email exchange in regard to procedures for ordering assignments directly from the appraiser instead of going thru a third party as the HVCC guidelines mandates separation of appraisal process from the origination process was presented for comment. Discussion concluded that it would appear that if you have a written confirmation which certifies that the appraisal management process is

independent of the origination, then you would have established a line of defense if the file is audited by the secondary lender and whether or not such relationship would continue would likely depend on whether the client's behavior is consistent with the certification and you are allowed to conduct the appraiser report independently without undue influence.

With no further topics Chairman Mitchell moved to the Director's report.

DIRECTOR'S REPORT

Director Policky reported the number of appraisers for April 2010 stands as follows: 112 Registered/Conversion; 102 Licensed; 208 Certified Residential; and 375 Certified General for a total of 797. The accounting includes the totals for April 2009 with a total of 832 appraisers. The renewal process, although almost completed, is ongoing until June 30, 2010. The fluctuation with the certified appraiser totals are most generally in the reciprocal numbers. It is the goal of the Board and this office to encourage an upgrade to a certified credential. A letter to remind those appraisers who have not renewed to date is scheduled to be mailed by the end of April so that each of the appraisers will have a couple of months to complete education they may be needed to renew and to remind the appraisers that reapplying for a credential will require completing the new criteria.

Vice Chairman Moore asked how long an appraiser has to renew a credential that exceeds the June 30th deadline. Director Policky stated that by law and rule, June 30th is the deadline. Any credential holder who passes the June 30th deadline of the following year is obligated to begin the credentialing process over from the beginning. It is the intent to present an inactivation process to the Board before the June 30th deadline. The Appraisal Subcommittee allows an inactive status for a period not to exceed three years. The credential must be removed from the active listing and all education due during the inactive period is due upon reinstating the credential to active status. The Board faces the rules and regulations for this meeting so the consideration will be presented at the May meeting.

Director Policky closed the report by thanking the Board for their service and assistance.

RECEIPTS AND EXPENDITURES REPORT – MARCH 2010

The receipts and expenditures for March were reviewed by the Director by line item with the Board. A total of \$26,362.65 in expenditures and \$3,114.73 in receivables is reported. Expenditures are higher because of legal costs paid amounting to approximately \$9,100.00 which are associated with a hearing. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for March are attached and considered part of these minutes.

Vice Chairman Moore moved to accept and file the March 2010 Receipts and Expenditures report for audit. Board Member Barkley seconded the motion. With no further discussion the motion carried with Wilson, Bain, Moore, and Mitchell voting aye.

UNFINISHED BUSINESS

1. LB931 / Final

LB931 has been signed by the Governor and considering LB931 had an emergency clause attached, became law 24 hours after the Governor's signature. A copy of LB931 as well as Legislative Resolution 413 has been distributed. The legislative resolution is to be a study to include a review of issues raised during consideration by the Banking, Commerce and Insurance Committee in 2010 of LB931 in regard to amending the Real Property Appraiser Act to provide for regulation of appraisal management companies. Senator Langemeier introduced the resolution and informed this

office that the Chairman of the Banking Committee, Senator Pahls, would inform the Appraiser Board of the upcoming activities in regard to the study.

Director Policky did remind the Board of the 24 hour effective date of the statutes and to keep in mind the goal was to move the effective date of the USPAP guidelines ahead. Correspondence was forwarded to credential holders with a copy of the statutes explaining what was accomplished and what tasks are ahead for the Board in determining most importantly, the appraisal management company legislation.

Board Member Wilson observed that although a member of this Board serving a second term had not prepared him for the challenges we faced during the 101st Legislative session. Wilson suggested that we combine our efforts with the Appraiser Coalition in hiring assistance for the legislative process to be more effective and prudent in our investment.

Chairman Mitchell reminded members that now is the time to make considerations for representatives to serve on the committee in regard to the appraisal management company policy and to make sure we have the assistance of the Appraiser Coalition in the process to ensure good representation from the beginning to the end.

2. USPAP Compliant Report

Mr. Stoeber prepared for the Board a handout of the Standard 3 Compliance Report reflecting the changes made as a result of the adoption of the 2010-11 Uniform Standards of Professional Appraisal Practice. The biggest change is to the Standard 3 begins on page four of the compliance report form. Instead of the previous eight sections, this compliance report will have twelve sections. The Board requested at the March meeting that Mr. Stoeber revise the compliance report form to include the change to the Conduct Section of the Ethics Rule in modifying the disclosure requirement in requiring that “prior to accepting an assignment, and if discovered at any time during the assignment, an appraiser must disclose to the client and in the report certification any services regarding the subject property performed by the appraiser within the prior three years, as an appraiser or in any other capacity” and changes to the Jurisdictional Exception Rule in the definition of jurisdictional exception as “an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.” The change is intended to clarify that jurisdictional exceptions are created when compliance with USPAP is precluded by law or regulation. Such law or regulation must be cited. The changes requested were made and accepted by the Board.

Chairman Mitchell requested a copy of the form be forwarded to reviewers and plans for a review session in the fall could be put under consideration. With no further discussion, Board Member Barkley proposed a motion to accept the Standard 3 Compliance Report in its revised format. Vice Chairman Moore seconded the motion. The motion carried with Moore, Wilson, Barkley, and Mitchell voting aye.

Board took a break at 10:05 a.m.

Board meeting reconvened at 10:23 a.m.

NEW BUSINESS

1. Education requirement for non-federally recognized designations to down grade credential.

Director Policky presented to the members an option for consideration in formulating policy to

address Registered appraisers who have not advanced to a federally-recognized credential under the policy adopted by the Board on November 20, 2008 and are requesting a downgrade to a trainee credential status or who are requesting to hold a trainee credential in addition to their Registered credential. In that the Registered credential is not a federally-recognized credential, downgrading to a federally recognized credential would require meeting the AQB/CAP approved core curriculum education requirements.

After much deliberation from members, the following motion was introduced by Vice Chairman Moore: If by 12/31/2011 the Registered credential qualifies to advance to a Licensed Residential, Certified Residential, or Certified General credential, the applicant will retain the value of the prerequisite education credit as adopted by the Board on November 20, 2008 as "Guidelines to Upgrade a Credential." Registered credential holders who downgrade to the trainee credential will be required to complete the 75 hours of AQB/CAP approved core curriculum education to qualify for the trainee credential. Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Moore, and Mitchell voting aye.

Vice Chairman Moore moved to change the Board adopted education upgrade matrix to reflect the policy for a Registered appraiser to downgrade to a Trainee credential by adding the 30 hours of Principles, 30 hours of Procedures and the 15-hour USPAP under the Registered requirements of the Trainee credential. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Moore, Wilson, and Mitchell voting aye.

Board took a break at 11:25 a.m.

Board meeting reconvened at 11:40 a.m.

2. Proposed 2010 Rules and Regulations.

The Board had appointed a committee of Sheila Newell, Diane Moore, and Cay Lacey to review the current rules and regulations and propose any updates or changes. The rules and regulations were set aside to propose the changes to the statutes for the 101st Legislative session. With the adoption of LB931 on April 14th, updates were made to reflect any statutes changes.

Director Policy asked for clarification and assistance in adding the Course Approve Program requirement in regard to on-line education in requiring the primary and secondary provider must have IDECC delivery approval. Changes to clarify the IDECC approval requirements were made to Chapter 4, 005.05. The requirement for both primary and secondary provider delivery approval is a requirement of the CAP guidelines.

Members agreed that the requirements under Chapter 6, Applications for Credentials, were not being applied in that the Appraiser Trainee credential is obligated to make the same \$150.00 application fee as remaining credentials. The original cost obligations would be restored and subsequent applications would reflect the requirement to submit the like application fee and a pocket card fee of \$200.00

The Board proceeded to review the final changes made to NAC Title 298 Rules and Regulations as a result of the passage of LB931. Vice Chairman Moore proposed a motion to approve the rules and regulations as amended and to proceed to schedule a hearing. Board Member Wilson seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, and Mitchell voting aye.

GENERAL PUBLIC COMMENTS

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

EDUCATION

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

Continuing Education New:

1. CLE International, Denver, CO:
 - A. “Renewable Energy” / 8 hours / C21022
Instructors: List available upon request. Policy statement of participating instructors complies with the Instructor Approval Standards established by the Appraiser Board for continuing education activities and meets all standards established for instructors;

2. Douglas County Assessor’s Office, Omaha, NE:
“IAAO 102 / Income Approach to Valuation”
30 hours / C2776
Instructors: Marion Johnson & Stephen C. Behrenbrinker

Request Instructor Only

1. Department of Revenue/Property Assessment Division, Lincoln, NE:
 - A. “IAAO Course 300 Fundamentals of Mass Appraisal” / 30 hours / C9367
Instructor: Garth E. Thimgan
 - B. “IAAO Course 101 Fundamentals” / 30 hours / C0002
Instructor: Garth E. Thimgan

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

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 12:22 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 2:13 p.m. Board Member Wilson seconded the motion. The motion carried with Barkley, Moore, Wilson and Mitchell voting aye.

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

R874: Approve to sit for examination.

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

CR374 / Candidate meets all AQB upgrade requirements to qualify for CR credential.
Approve for credentialing when successful completion of exam is submitted.

CR375 / Select three (3) appraisal reports for a residential: <20 years; residential >20 years and a 2-4 family for Standard 3 Report. Approve to submit for examination.

Vice Chairman Moore moved to take the following action for the Certified Residential Reciprocity applicant:

CR376 / Applicant meets statutory guidelines. Approve as reciprocal credential.

Vice Chairman Moore moved to take the following action for the Certified General applicant:

CG602 / Approve reciprocity credential for request as a residential credential.

Vice Chair Moore moved to take the following action Certified General Reciprocity applicant:

CG602: Applicant meets statutory guidelines. Approve as reciprocal credential.

Board Member Wilson seconded the motion. Motion carried with Wilson, Barkley, 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. Failure to meet deadlines / Dec. 31, file Formal Complaint. Appraiser has not renewed credential for 2010.
- 08-04 Hold. Education due by December 31, 2009. Credential suspended until requirements of Consent Agreement are met. Appraiser has not renewed credential for 2010.
- 09-02 Quarterly log selection due to Board for 5/20/10 meeting. Last submission due.
- 09-21 Consent Agreement. Due by 5/22/2010.
- 09-22 Report sent for Standard 3 Review Report. Accepted report. Dismiss.
- 09-23 Report sent for Standard 3 Review Report. Advisory and close.
- 09-26 Consent Agreement. Due by 5/22/2010.
- 09-27 Dismiss.
- 10-02 Dismiss.
- 10-03 Invite informal conference.
- 10-04 Advisory letter. Close.
- 10-05A Hold.
- 10-05B Invite informal conference.
- 10-06 Advisory letter. Close
- 10-07A Invite informal conference.
- 10-07B Invite informal conference.
- 10-08 Request true copy of report and workfile. Standard 3 Compliance Report.

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

Vice Chair Moore moved to take the following enforcement action:

- 09-07 Hold. Formal / Hearing. Case sent to Judge.
- 09-09 Hold. Formal / Hearing. Case sent to Judge.
- 09-25 Informal 2/15/2010 2:00 p.m., NSOB. Hold until prior hearing is completed.

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

Vice Chair Moore moved to take the following enforcement action:

08-11 Hold / Board granted another extension for education until March 1, 2010. Stress to appraiser there will be no further extensions. Appraiser has not met conditions of Consent Agreement. Appraiser has not renewed 2010 credential to date.

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

Tentative meeting dates were approved as follows: June 17, 2010 / 1Y
July 15, 2010 / 1Y

ADJOURNMENT

Board Member Wilson moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried unanimously.

At 2:30 p.m. Chairman Mitchell adjourned the April 22, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on April 29, 2010, in compliance with Nebraska Statute §84-1413(5).