

**REAL PROPERTY APPRAISER BOARD
LIQUOR COMMISSION HEARING ROOM
5TH FLOOR, NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

October 28, 2010

OPENING

Chairman Gregg Mitchell called to order the October 28, 2010 meeting of the Nebraska Real Property Appraiser Board at 10:28 a.m., in the Liquor Commission Hearing Room, 5th Floor 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. Publication of official notice of the meeting appeared in the September 20, 2010 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. 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 David Hartman, Philip Barkley, Bradford Moore, Matthew 'Joe' Wilson, and R. Gregg Mitchell were 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. Board Vice Chairman Moore moved to adopt the Agenda as printed. Board Member Wilson seconded the motion. With no further discussion, the motion carried with Hartman, Barkley, Moore, Wilson 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 SEPTEMBER 23, 2010

Chairman Mitchell asked for any additions or corrections to the September 23, 2010 minutes. With no additions or corrections, Vice Chairman Moore moved to adopt the minutes as presented. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Moore, Wilson, Hartman, and Mitchell voting aye.

CHAIRMAN'S REPORT

Chairman Mitchell took note of the number of considerations under New Business so stated he would withhold comments until respective topics were addressed.

DIRECTOR'S REPORT

Director Policky withheld the report on the number of appraisers to date until the report on 2011-2012 renewals as the information is combined on the same report.

Board Member Moore requested a copy of the Mission statement for the Appraiser Board. Director Policky presented the current statement noting that the supporting information changes relevant to the subject matter. Board members agreed that the basic mission statement should be added to the website and requested that the statement be added at the earliest convenience.

A copy of the Press Release from the Board of Governors of the Federal Reserve System was distributed to inform members that an interim final rule to ensure that real estate appraisers are free to use their independent professional judgment in assigning home values without influence or pressure from those with interests in the transactions was issued. The interim final rule includes several provisions that protect the integrity of the appraisal process. The rule also seeks to ensure that appraisers receive customary and reasonable payments for their services. The interim final rule is required by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Compliance will be mandatory on April 1, 2011. A complete copy of the final rule can be viewed at www.federalreserve.gov/newsevents.

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

RECEIPTS AND EXPENDITURES REPORT – SEPTEMBER 2010

The receipts and expenditures for September were reviewed by the Director by line item with the Board. The Budget Status Report indicates a total of \$18,290.32 in receivables and \$20,130.43 in expenditures. The receivables are significantly higher simply because credentials are being renewed at this time. The majority of renewals will take place prior to the November 30th deadline. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for September are attached and considered part of these minutes. Board Member Barkley moved to accept and file the September 2010 Receipts and Expenditures report for audit. Board Member Wilson seconded the motion. With no further discussion the motion carried with Moore, Wilson, Hartman, Barkley, and Mitchell voting aye.

UNFINISHED BUSINESS

1. 2011-2012 Renewals

Director Policky distributed the accounting of appraisers for October 2010 and October 2009. The total for 2010 was 824 and the total for 2009 was 849 indicating a loss of 25 appraisers to date. The most significant loss is the number of Registered and Licensed Residential appraisers. Appraisers in these two categories are upgrading and many are simply leaving the profession. The Certified Residential credential has only 13 more than 2009 and three less Certified General in 2010.

The 2011 and 2011-12 renewal forms were posted to all appraisers on September 16, 2010. To date we have processed the following totals: 8 Registered; 8 Licensed Residential; 33/2011 and 9/2011-2012 Certified Residential and 41/2011 and 31/2011-2012 Certified General. Appraisers with a continuing education period ending this year or a 2009-10 continuing education period were eligible to renew for a two year period versus the one year renewal. The USPAP Update obligations remain effective for each credential participating in the two year renewal and the credential can be inactivated for not completing the USPAP Update course in the year it is due. The opportunity to renew for two years has been selected by almost every reciprocal credential that has renewed to date and appears to be quite successful. Reciprocal credentials must meet the same requirements for continuing education in their resident state so Nebraska elected in 2006 not to require the education completion documents to process a reciprocal credential for renewal. The reciprocal credential must submit with the renewal a document of good standing from their resident state as required by statute.

Director Policky informed members that since the renewal pocket cards were being printed by another system, they were being mailed within a few days instead of waiting until after December 1st. ASC Policy Statement 9 requires that at a minimum, the submission of information must be at least monthly so the office was forced to wait until after the November 30th deadline for a December submission. The pocket cards can be effectively printed and processed with the two systems in use and the current information can be reported to the Appraisal Subcommittee as required.

NEW BUSINESS

1. Notice Appraisal Subcommittee/Modification of Annual National Registry Fees.

Notice was received on October 14th from the Appraisal Subcommittee (ASC) of a modification of the annual National Registry fee to \$40.00 from the current \$25.00 amount was approved at its meeting of October 13th. The authority to increase the fees is granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The ASC raised the registry fee to support its supervisory activities, including additional authority and responsibility under the Dodd-Frank Reform Act.

To provide a reasonable transition period for implementation by the states, the fee increase is effective on January 1, 2012. Accordingly, on or after January 1, 2012, all new appraiser credentials and all renewals of existing credentials will owe and are obligated to transmit the modified annual Registry fee of \$40.00 in order for a credential to be reflected on the National Registry. For states that issue multi-year certifications the modified Registry fee is due to the ASC on the date that the credential is renewed by the State. If the State remitted \$50.00 to the ASC for fees owed in 2011 and 2012, the ASC will accept the amount as payment in full of the annual fee for the calendar years 2011 and 2012. "The State would not have to collect the \$15.00 difference in the Registry fee amount for 2012. Upon renewal of the two-year credential in 2013, the State would be required to remit \$80.00 to the ASC in order for the appraiser to remain on the National Registry in 2013 and 2014."

Vice Chairman Moore moved to approve the modified fee structure from the Appraisal Subcommittee to increase Federal Registry fees to \$40.00 annually beginning January 1, 2012. Federal Registry fees will remain at \$25.00 for 2011 and for 2012 if a two year renewal was in effect. Board Member Hartman seconded the motion. With no further discussion the motion carried with Wilson, Hartman, Barkley, Moore, and Mitchell voting aye.

2. First Exposure Draft / Proposed Revisions to the Future Real Property Appraiser Qualifications Criteria 2015

The Appraiser Qualifications Board (AQB) published on October 19th, 2010 the first exposure draft of proposed revisions to the real property appraiser qualifications criteria after a public hearing held in Minneapolis, Minnesota on June 25, 2010. At the hearing, a wide range of constituents provided comments to the AQB suggesting the types of revisions to the Criteria that should be considered in the future. The AQB anticipates adopting proposed revisions to the Criteria near the end of 2011. The effective date of any proposed revisions to the Criteria is not likely to occur any earlier than January 1, 2015. The proposed changes are noteworthy. Nebraska currently has adopted many of the proposed changes such as completing the experience and the education as a prerequisite for taking the AQB approved examinations.

The proposed changes to the education requirements would be dramatic. The proposed comments would require a college degree for the Certified Residential classification from an Associate degree and there would be a requirement to require at least an Associate degree for the Licensed

Residential classification. In addition to revising the college degree requirement, the survey participants expressed a desire to eliminate the “in lieu of” option from the qualifying education requirements for both the Certified Residential and the Certified General classifications.

The proposed requirements would include criminal background checks. “Appraisers are required by the Uniform Standards of Professional Practice to be independent, impartial, and objective, and to perform assignments without bias. Issuing a credential to an individual that is required to adhere to such obligations without knowing whether that individual has a criminal background seems highly inconsistent.” Citing professions such as those associated with mortgage lending, brokers and loan originators who must undergo a criminal background check prior to being credentialed. The AQB indicated that while it is not proposing the background check requirements for an appraiser mirror those of other professions, the AQB believes public trust is best served if an applicant for a credential was subject to a criminal background check of some type.

Another significant proposed revision is to require all appraisers to take the 7-hour National USPAP Update Course within six months of its effective date of a new edition of USPAP, but in no event any less frequently than every two calendar years. The course completed must be the version most recently available, and may be taken prior to the effective date of the new edition of USPAP, if available. The requirement would solve the issue of those who constantly push the button and find themselves taking two of the same USPAP Update courses. When you miss the completion year, it does not change the due date but simply compounds the problem. The update course is meant to educate and inform appraisers of current changes to the Uniform Standards. The information is rather of little use when it comes at the end instead of the beginning of the adopted version.

While other proposed changes are included in the First Exposure Draft, those mentioned would implement the most dramatic changes to the profession and to the practice of appraisal. The complete version can be found on the Appraisal Foundation’s website @ www.appraisalfoundation.org. It would be advisable that the appraiser take the time and interest in the proposed changes and evaluate the impact on the profession and submit comments to the AQB.

3. Third Exposure Draft / Proposed Revisions for 2012-13 Edition of USPAP

The Appraisal Standards Board (ASB) of the Appraisal Foundation produced on September 29, 2010 the third exposure drafted of proposed changes for the 2012-13 edition of the Uniform Standards of Professional Appraisal Practice. The ASB relies heavily on the input provided during the exposure draft process. The driving factors for the proposed changes are issues such as the current definition of “report” has led to situations where USPAP has not been enforceable; insufficient guidance for communicating with clients during an assignment; interim communications that are not subject to existing reporting requirements in USPAP; varied and sometimes incorrect interpretation of current reporting requirements; need to include in USPAP clarification that the completion of a portion of an assignment still carries communication obligations; and the lack of specific regulation of some forms of communication as justification to perform in a manner that involves advocacy. A complete copy of the Third Exposure Draft can be found on the Appraisal Foundation’s website @ www.appraisalfoundation.org. Appraisers can submit written comments or electronic submissions. Names may be redacted upon request.

4. Request for credit for qualifying education examination.

Director Policky presented to members a question regarding the completion of an examination in a new continuing education period. Because the appraiser had initially failed the examination and returned after January 1st to successfully complete the examination, the appraiser felt as if credit

should be given in the year it was successfully completed. Director Policky cited statute §76-2236 which states as follows . . . “Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another.”

Because the examination meets the requirements of qualifying for education the appraiser felt credit should be given when completed. The Board unanimously agreed that no credit should be given as the approval of core curriculum education credit cannot be effective without successfully completing the examination. The examination cannot be completed for credit without the core curriculum education and the education cannot be given core curriculum credit without the examination. Continuing education would be credited minus the examination of the appraiser did not successfully complete the examination. They are given respective values to address candidates who pass the examination and those who do not and the appropriate use of successfully completing core curriculum education. The Board would stand by the statutory requirements.

5. Dodd-Frank / HR4173 / Changes to Title XI

To each member and public, the “red-lined” edition of Title XI of FIRREA was distributed as amended by the Dodd-Frank Reform Act. Title XIV of the legislation, the Mortgage Reform and Anti-Predatory Lending Act, generated the changes to Title XI of FIRREA. The full text of the Dodd-Frank Reform Act is available at <http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>. The changes to Title XI are worth reading. This office will supply a copy of Title XI changes upon request.

The changes are extensive but the most significant reform involves the administration, regulation and collection of fees for appraisal management companies. The minimum requirements can be found in §1124 of Title XI requiring AMCs to register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates; that AMCs verify that only licensed or certified appraisers are used for federally related transactions; that appraisals comply with the Uniform Standards of Professional Appraisal Practice; and require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act. The AMCs will also be subject to Appraisal Subcommittee (ASC) oversight and the ASC shall maintain a national registry for AMCs and impose an annual registry fee. The ASC can remove AMCs, as well as appraisers, from the registry on interim basis pending state action.

Appraiser Qualifications Board (AQB) Qualifications Criteria for licensed and trainee appraisers becomes mandatory for the states. Criteria are currently voluntary for each credential.

The Subcommittee will monitor each State appraiser certifying and licensing agency for compliance and will have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration, and disciplinary proceedings as they shall not be recognized by States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with Title XI. For the first time, the Subcommittee shall have the authority to impose sanctions against a State agency that fails to have an effective appraiser regulatory program. In addition the Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of the derecognition of a State agency. The oversight will also determine whether the state has effective appraiser independence laws.

New conflict of interest standards in TILA that prohibit an appraiser or AMC from having a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal and TILA amendment that any “mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company (AMC), employee of an AMC, or any other person involved in real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer” who has “a reasonable basis to believe” that an appraiser has failed to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct must report the matter to the applicable state appraisal board.

An AMC must register with and be subject to the state appraisal board in each state the company operates. AMCs that are subsidiaries of financial institutions are not required to register with states. But an AMC may not be registered with a state or be on the registry if directly or indirectly owned by a person who has had an appraisal license revoked, refused, denied, cancelled, or surrendered in lieu of revocation, and must be of good moral character.

Appraisers are to be compensated at a rate that is reasonable and customary for appraisal services in the market area of the property being appraised.

Changes to Title XI require quality control standards for automated valuation models and prevent a broker’s price opinion to be used in conjunction with the purchase of a consumer’s principle dwelling, as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.

The Dodd-Frank Wall Street Reform and Consumer Protection Act or H.R. 4173 will take years to implement. Change will take time and implementation will take place in stages.

6. 2010 AMC Model Legislation.

With the adoption of the Dodd-Frank Wall Street Act, the Real Property Appraiser Board members discussed preparing to meet the challenges and requirements of future compliance. Although the guidelines have not been issued to date by the Appraisal Subcommittee in regard to the registration and regulation of the Appraisal Management Companies, members felt forming a committee of finance and appraisal to begin the process would assist in the formulating future policy.

Vice Chairman Moore proposed a motion to appoint financial representative, David Hartman as chairman and the certified appraiser representative from the 1st District, Joe Wilson as vice chairman to retain individuals for formulation of proposed AMC legislation with a target date of 2012. Proposed AMC legislation will be subject to approval by the NRPAB. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Barkley, Moore, Wilson, and Mitchell voting aye.

Chairman Mitchell proposed a motion to request a memorandum be placed on the website and sent to appraisers notifying the community of our selection and strategy for future legislation. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Moore, Wilson, Hartman, and Mitchell voting aye.

7. Licensing inquiry: Reviews by out-of-state appraisers.

The Real Property Appraiser Board office as well as this Board has often been confronted with the question of whether an out-of-state reviewer can perform the review without obtaining a Nebraska

credential. Citing that Nebraska is a mandatory state under §76-2220 and that the definition of real estate or real property appraisal practice found under Chapter 1, 001.03, the question was submitted to Kristi Klamat of the Appraisal Subcommittee for an opinion. The Subcommittee had not responded by the time of the meeting so the subject will be returned to the November 18th meeting at the request of Chairman Mitchell.

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. Appraisal Institute, Chicago, IL:
 - A. "Case Studies in Appraising Green Residential Buildings" / 8 hours / C21047
Instructor: Sandra K. Adomantis
 - B. "Introduction to Green Buildings: Principles & Concepts" / 8 hours / C21048
Instructor: Taylor Watkins

2. Appraisal Foundation, Washington, D.C.
 - "Investigator Training 1" / Chicago, IL, 12 hrs. 11/12-14/2009 / C2908
 - "Investigator Training 2" / Scottsdale, AZ, 7 hrs. 11/11-13/2010 / C21049
Instructor: Dennis Badger, Kentucky
Tom Lewis, North Carolina Appraiser Board

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

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

Continuing Education New:

1. The Moore Group, Inc., Lincoln, NE:
 - A. "Dodd-Frank Reform Act & How it Impacts Appraisers" / 4 hours / C21052
Instructors: Bradford Moore
Diane Moore
 - B. "Appraising 2-4 Family & Multi-Family Properties" / 7 hours / C21053
Instructors: Bradford Moore
Diane Moore

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

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 enforcement matters against 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 qualifying applicants and relating to the alleged violations of performance in real property appraisal practice to discuss litigation with our attorney. The time on the meeting clock was 1:34 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Barkley, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 2:40 p.m. Board Member Wilson seconded the motion. The motion carried with Barkley, Moore, Wilson, Hartman, and Mitchell voting aye.

MOTIONS TO ACT ON CLOSED SESSION AGENDA

Chairman Mitchell opened the floor to discussion of closed session agenda items.

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

ST210: Approved. Continuing Education due date October 28, 2012.

Vice Chair Moore moved to take the following action for a reciprocal Certified General applicant:

CR608 / Candidate meets all statutory obligations of §76-2232. Approve for credentialing.

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

Vice Chair Moore moved to take the following enforcement actions:

- 09-26 Hold. Consent Agreement to 15-hour National USPAP course; 15-hour Residential Report Writing & Case Studies to be completed by 11/30/2010. Respondent's credential will be downgraded permanently to Certified Residential immediately.
- 10-03 Hold. Consent Agreement. Agreement 2-day USPAP & General Report Writing & Case Studies by 11/30/2010.
- 10-05B Hold. Consent Agreement. Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 11.30.2010.
- 10-07A Approved request to extend education deadline 30 days or 1.31.2011. Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010.
- 10-07B Approved request to extend education deadline 30 days or 1.31.2011. Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010.
- 10-08 Hold. Consent Agreement. 15-hour National USPAP; 30-hour General Report Writing & Case Studies; no supervisory or advisory; education due by 12/31/2010.
- 10-15 Offer Consent Agreement: 15-hour National USPAP & 15-hour Residential Report Writing & Case Studies due by 4.30.2011.
- 10-19 Hold / Respondent has not submitted fee for State Treasurer costs for processing check for insufficient funds.
- 10-21 Offer Consent Agreement: 15-hour National USPAP & 15-hour Residential Report Writing & Case Studies due by 4.30.2011.
- 10-23 A&B / Invite Informal 8:00 a.m. 11.18.2010.
- 10-24 Hold / Require submission of corrected newspaper advertisement.
- 10-26 Request true copy report and workfile duplicate. Forward Standard 3 Compliance Report.
- 10-27 Request true copy report and workfile duplicate. Forward Standard 3 Compliance Report.

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

Vice Chair Moore moved to take the following enforcement actions:

10-25 Hold / Standard 3 Compliance Report not complete.

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

Vice Chair Moore moved to take the following enforcement action:

09-07 Approved motion to take action on request for Stay.

Approved proposed Motion w/stipulations regard to Stay filed District Appellate Court. Motion to adopt the finding to oppose Stay on grounds threat to public welfare.

Approved to request bond in amount \$5,000 cash or w/security Court.

Approved Affidavit as presented to submit Motion.

Board voted 4 in favor and 1 abstention.

09-09 Approved motion to take action on request for Stay.

Approved proposed Motion w/stipulations regard to Stay filed District Appellate Court. Motion to adopt the finding to oppose Stay on grounds threat to public welfare.

Approved to request bond in amount \$5,000 cash or w/security Court.

Approved Affidavit as presented to submit Motion.

Board voted 4 in favor and 1 abstention.

09-25 Hold until Case #09-07 & #09-09 are completed.

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

Tentative meeting dates were approved as follows: December 16, 2010 / 1Y
January 20, 2011 / 1Y
February 17, 2011 / 1Y

ADJOURNMENT

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

At 2:45 p.m. Chairman Mitchell adjourned the October 28, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on November 4, 2010, in compliance with Nebraska Statute §84-1413(5).