

**REAL PROPERTY APPRAISER BOARD  
MAIN LEVEL, ROOM “Y”  
NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**17 February 2011**

**OPENING**

Chairman Brad Moore called to order the February 17, 2011 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in Room “Y” located on the Main Level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

**NOTICE OF MEETING**

Chairman Moore 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 February 14, 2011 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 R. Gregg Mitchell, Bradford Moore, Philip Barkley, Tom Kubert, and David Hartman were present. Director Kitty Policky was also present.

**ADOPTION OF THE AGENDA**

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

**WELCOME GUESTS**

Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log.

**APPROVAL OF THE MINUTES FROM JANUARY 20, 2011**

Chairman Moore asked for any additions or corrections to the January 20, 2011 minutes. With no further discussion Board Member Mitchell moved to adopt the minutes as presented. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Hartman, Mitchell, and Moore voting aye.

**APPROVAL OF THE MINUTES FROM JANUARY 31, 2011 EMERGENCY MEETING**

Chairman Moore asked for any additions or corrections to the January 31, 2011 minutes for the emergency meeting held to address actions necessary to forward LB410 and proposed amendments. Board Member Mitchell pointed out that there is a reference to Chairman Mitchell instead of Chairman Moore on the last page. With no further discussion Board Member Mitchell moved to adopt the minutes as amended. Vice Chairman Barkley seconded the motion. With no further discussion, the motion carried with Kubert, Hartman, Mitchell, Barkley, and Moore voting aye.

## **CHAIRMAN'S REPORT**

Chairman Moore began the report by referencing LB410 and the emergency meeting held on January 31<sup>st</sup>. The Board voted unanimously to support LB410 with the amendments. On February 1<sup>st</sup>, Director Policky provided testimony in support of the legislation before the Banking, Commerce, and Insurance Committee and on February 16<sup>th</sup>, a news release was electronically distributed to all appraisers with a copy of LB410 and the amendment AM197.

Chairman Moore proceeded to an item of interest that Board Member Kubert had brought to the Board's attention a draft regulation for Title 350, Property Assessment Division of the Nebraska Department of Revenue. The proposed draft regulations add such vernacular as "certified," "appraiser" and "appraisal" to the regulations of assessors. The purpose is to create something called a "mass appraisal credential." Achieving the mass appraisal credential goes through a designation process and not a credentialing process. A public hearing will be held on Friday, March 18<sup>th</sup>. It is interesting that Revenue is creating a system of quasi credentialing of mass appraisers. This Board is generally charged as the agency with credentialing valuation experts as appraisers. Perhaps this is an opportune time to discuss the subject of a mass appraisal credential with Revenue for common ground.

The elimination of the Registered appraiser credential by December 31, 2011 and a final phasing out by December 31, 2014 and the need for experience to achieve the remaining credentials other than trainee, has ended the opportunity for an assessor to become an appraiser. The Registered credential does not require any type of experience.

Board Member Kubert asked why there had been no effort to perhaps create a credential that addressed the appraiser as an assessor. Past Board Member and Chair Danny Stoeber tried to outline the history of the credentialing requirements and Standard 6. Generally, work product does not address the federal requirements for experience of mass appraisal. Although a portion of the mass appraisal experience is recognized by statute, allowing full accounting would jeopardize our credentials and reciprocity agreements. Board Member Mitchell explained the history of the long discussions with assessor management in regard to experience. The rules allow an assessor to utilize 25% of mass appraisal that meets Standard 6. Nebraska found the rule consistent with surrounding states. Mass is an area of practice very different than developing an individual report. Credential holders must demonstrate competency for individual reports as the credential gives them the opportunity to not only perform mass assessments but to develop individual reports. Competency and protection of the public become an issue. The reference to a "certified mass appraiser" is just as misleading as the Registered credential in that certified is a recognized credential for the appraisal profession. A title of "accredited mass appraiser" instead of certified would be much more appropriate. The use of the word "certified" steps over bounds to existing appraiser credentials. The public may or may not be able to discern the difference. The suggested solution to change "certified" to "accredited" for a lack of a better term.

Chairman Moore explained that a state credential for mass appraisers administered under the Appraiser Board may be more achievable than realized at first. Such a possible move would expend the pool of dwindling appraisers. Under federal requirements, a candidate would be required to meet core education requirements and the elective education could include the required assessor education giving mass appraisers the opportunity to eventually become fee appraisers. The credentialing fee and education costs appear to be a deterrent but there are possibilities. There is a difference in that an individual earns a credentialing from Appraiser Board and a designation from

Property Assessment but the more important feature is that the proposed regulations lack accountability for enforcement and a complaint process.

Members were in agreement that Chairman Moore and Board Member Kubert would meet with the Director of the Nebraska Department of Revenue/Property Assessment Division to informally discuss possibilities and the concerns with the proposed draft regulation.

### **DIRECTOR'S REPORT**

Director Policky reported on her testimony before the Appropriations Committee on February 15th in regard to the 2011- 2012 and 2012-13 proposed budgets and the lack of funds. The declining balance is basically due to the implementation of the new criteria on January 1, 2008 and the rising costs of enforcement. The Board has taken evasive action by raising the renewal rates to the level permitted by regulation. The burden of LB3 in had a significant impact on an already stressed bottom line. No significant purchases, payroll raises, or monies over and above the cost of doing business have been spent or budgeted. Director Policky assured the Appropriations Committee that the office would meet its statutory obligations to serve the appraisers as well as the public.

A chart depicting the Appraiser Board Cash Fund showing revenues and expenditures and an ending balance of less than \$20,000 at the end of the 2012-2013 fiscal year. Instead of assessing expenditures, it may be more significant to measure the loss of income. At the end of the fiscal year 2005, the profession had 309 Registered and Conversion appraisers. At the end of the fiscal year 2007, the profession had 280 Registered and Conversion appraisers. At the end of the fiscal year 2009, the profession had 126 Registered and Conversion appraisers. And while it may be true that appraisers have upgraded, the majority simply have not renewed their credentials. The remaining credentials have not absorbed a distribution of 183 Registered appraisers since 2005. At the end of 2011, we lose the remaining 88 credentials. Approximately 19 of the 88 are credential by statute for three renewals if credentialed in the last year of 2011. The total is a significant loss of income but as Board Member Mitchell pointed out, the market has dictated a significant loss in not only the number of appraisers, but the number of realtors and the number of lenders and at the same time, the profession is graying. The average age of most appraisers is around 60 and the majority fall between 55 and 65 in age. While it appears to be a profession few retire at 65, the emphasis must be on the opportunities for new appraisers. Clearly the position of the appraiser profession ten years down the road will be of concern.

Director Policky reported the number of appraisers for February 2011 stands as follows: 88 Registered/Conversion; 89 Licensed; 207 Certified Residential; and 357 Certified General for a total of 741 appraisers. The accounting includes the totals for February 2010 reporting 791 appraisers and a report for February 2009 of 815 appraisers. The renewal process, although almost completed, is ongoing until June 30, 2011.

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

### **RECEIPTS AND EXPENDITURES REPORT – JANUARY 2011**

The receipts and expenditures for January were reviewed by the Director by line item with the Board. A total of \$13,780.74 in expenditures and \$9,960.71 in receivables is reported. No considerations were made for expenditures other than monthly obligations. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for January are attached and considered part of these minutes. Board Member Mitchell moved to accept and file the January 2011 Receipts and Expenditures report for audit. Vice Chairman Barkley seconded the

motion. With no further discussion the motion carried with Hartman, Mitchell, Barkley, Kubert, and Moore voting aye.

## **UNFINISHED BUSINESS**

### **1. AMC Legislation / LB410**

Chairman Moore discussed much of the information surrounding the advancement of LB410 in the Chairman's report. A legislative document giving a chronological accounting indicates LB410 was placed on General File with AM197 on February 3rd. AM197 was adopted by Banking, Commerce and Insurance on February 11<sup>th</sup> and advanced to initial Enrollment and Review. LB410 was placed on Select File on February 15<sup>th</sup>. AM197 is located under New Business.

An amendment to LB410 was filed by Senator Utter on February 16<sup>th</sup>. AM360 was not submitted with AM197 as we were awaiting approval from the FBI of language necessary to conduct a criminal background check. AM360 simply requests that each individual owner of more than ten percent of an appraisal management company must, at the time of application for registration, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by the Nebraska State Patrol and the Federal Bureau of Investigation. Enrollment and Review ER27 was adopted on February 17, 2011.

### **2. 10-11 USPAP Compliant Report / Danny Stoeber**

Mr. Stoeber was in attendance to review the changes to the Standard 3 Compliance Report form by simply making the document consistent by eliminating all reference to review and reviewer and making reference to contractor and compliance report. Board Member Mitchell wanted to know the significance in leaving the side note addressed to the reviewer. Board Member Mitchell also pointed out a problem with #12 on page 17 in referencing only the certified general appraiser as a contractor can be a certified general or a certified residential and eliminating the reference to review as the purpose for the compliance report are the qualifications of the contractor. Further changes to the second line should add . . . "involved in the compliance and investigation of many similar properties. The education and experience in valuing review and compliance and analysis . . . many similar reports. The education and experience as a valuing review and compliance analysis contractor for similar reports . . ." It was also noted that on Page 18, after the reference to appraisal, appraisal review or appraisal consulting, "compliance analysis" assistance . . . should be added.

Stoeber noted that the disclosure requirement under the Conduct Section of the Ethics Rule for any services regarding the subject property that were performed by the appraiser within the prior three years, as an appraiser or in any other capacity, would be added to page 18 and the final correction to page 18 would be to change the reference to Nebraska credential number instead of Nebraska license number. The changes will be presented at the March meeting.

The 10-11 USPAP Compliance Report form will be reviewed at the March meeting.

## **NEW BUSINESS**

### **1. AM197**

AM197 was adopted by Banking, Commerce and Insurance on February 11, 2011. The Amendment will advance to Enrollment and Review and was placed on Select File with ER27. Enrollment and Review or ER27 was filed on February 15, 2011.

Board took a break at 10:20 a.m.

Board meeting reconvened at 10:30 a.m.

## **GENERAL PUBLIC COMMENTS**

Chair Moore asked for any public comments.

With no comments, the Chair proceeded to education.

## **EDUCATION**

Director Policky informed the Board of a notice to state regulators from the Appraisal Foundation that IDECC withdrew approval of the following courses approved through the AQB Course Approval Program: McKissock / “Developing and Growing an Appraisal Practice” / Internet, 10 hours; and McKissock, “Introduction to Expert Witness Testimony” / Internet, 7 hours. Under statutory requirement all online education must be IDECC approved regardless of whether the seminar is AQB/CAP approved. Nebraska statutory requirements do not mandate AQB/CAP approval for online education but does require IDECC approval. The withdrawal of approval became effective February 7, 2011. The Foundation did note that per IDECC that “a number of other McKissock courses were audited and found to be in full compliance regarding course completion time.” Only the “Introduction to Expert Witness Testimony” had been approved by Nebraska and has subsequently withdrawn approval.

Board Member Mitchell moved to approve the following continuing education seminar and respective instructors as listed:

### *Continuing Education New & Instructor Requests:*

#### **1. CREW Midwest, dba Slusky Real Estate Group, Omaha, NE:**

##### A. “2011 Commercial Real Estate Workshop” / 8 hours / C21120

Instructors: CREW workshop submission has included a policy statement certification standards for all instructors that the minimum standards for all instructors used in the Commercial Real Estate Workshop comply with the Instructor Approval Standards established by the Nebraska Real Estate Commission for continuing education activities that meet the provisions of the Nebraska Real Estate License Act. The minimum standards established for the instructors are as follows:

A. A highly qualified professional with a generally recognized professional designation; B. Holds a Bachelors degree, provided the degree is in an area traditionally associated with the subject matter of Real Estate; C. Holds a Bachelors degree in education and a valid certification in their resident jurisdiction and extensive real experiences and; D. Have extensive instructional background in real state education and have experience as evidenced by a valid Broker’s license or three years of licensed real estate experience as a salesperson; or at least 5 years experience not requiring real estate license in their area of practice. Each statement meets the requirements of Rules and Regulations **4-003.01 to 4.003.01F**.

Vice Chairman Barkley seconded the motion. With no further discussion, Chairman Moore called for the vote. The motion carried with Mitchell, Barkley, Hartman, and Moore voting aye. Board Member Kubert abstained.

Board Member Mitchell moved to approve the following continuing education seminar and respective instructor as listed:

**1. McKissock, LP, Warren, PA:**

A. “Appraising Manufactured Housing” / Online / 7 hours / C9963-I

Instructor: Alan F. Simmons

Vice Chairman Barkley seconded the motion. With no further discussion, Chairman Moore called for the vote. The motion carried with Barkley, Kubert, Hartman, Mitchell, and Moore voting aye.

*The Nebraska Real Property Appraiser Board will meet in executive session for approval of applicants and enforcement matters.*

**APPLICANTS & ENFORCEMENT**

Vice Chair Barkley 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 10:34. Board Member Mitchell seconded the motion. The motion carried with Kubert, Hartman, Mitchell, Barkley, and Moore voting aye.

Vice Chair Barkley moved to come out of executive session at 2:00 p.m. Board Member Mitchell seconded the motion. The motion carried with Hartman, Mitchell, Barkley, Kubert, and Moore voting aye.

Vice Chair Barkley moved to take the following action for the Registered applicant:

R880 / Meets statutory obligations. Approve. Submit for examination.

R881 / Meets statutory obligations. Approve. Submit for examination.

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

CR382 / Applicant meets statutory obligations of §76-2231.01. Approve to credential upon submission of original document indicating successful completion of examination to the Appraiser Board office.

CR383 / Applicant meets statutory obligations of §76-2231.01. Approve to credential as applicant has submitted the original document indicating successful completion of examination to the Appraiser Board office.

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

CG612 / Candidate meets all statutory obligations of §76-2232. Approve for credentialing.

CG613 / Candidate meets all statutory obligations of §76-2232. Approve for credentialing.

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

Vice Chair Barkley moved to take the following enforcement actions:

09-07 Hold. No action taken.

09-09 Hold. No action taken.

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

- 09-26 Hold. Signed 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. Extension granted 1/31/2011 for education due date. Final extension granted until March 1, 2011. Suspend credential terms of Consent Agreement have not been met by the March 1, 2011 deadline. Forward Stipulation and Order to inactivate credential for violation of §76-2238(18).
- 10-03 Hold. Issued Stipulation and Order to inactivate credential for violation of §76-2238(18). Consent Agreement 15-hour National USPAP & General Report Writing & Case Studies by 11.30.2010. Board Chairman sign Order. Credential inactivated until terms of Consent Agreement has been met.
- 10-15 Hold. Signed Consent Agreement to 15-hour National USPAP and 15-hour Residential Report Writing & Case Studies. No supervisory or advisory. Education due 4/30/2011.
- 10-19 Hold / Respondent has not submitted fee for State Treasurer costs for processing check for insufficient funds. Violation of §76-2238(21).
- 10-21 Hold. Signed Consent Agreement to 15-hour National USPAP and 15-hour Residential Report Writing & Case Studies. No supervisory or advisory. Education due 4/30/2011.
- 10-28 Report received late as appraiser located out of state for winter. Standard 3 Compliance Report does not meet minimum standards. Invite informal 8:00 a.m. Thursday, February 17. Respondent declined informal. Consent Agreement to 15-hour National USPAP and 15-hour Residential Report Writing & Case Studies. No supervisory or advisory. Education due 90 days from signing of Agreement.
- 11-01 Advisory letter. Close.
- 11-02 Request true copy of report and workfile. Return report and workfile to March meeting for evaluation.
- 11-03 Request true copy of report and workfile. Return report and workfile to March meeting for evaluation.
- 11-04 Request true copy of report and workfile. Return report and workfile to March meeting for evaluation.

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

#### **ADJOURNMENT**

Vice Chair Barkley moved to adjourn the meeting. Board Member Kubert seconded the motion. Motion carried unanimously.

At 2:10 p.m. Chairman Moore adjourned the February 17, 2011 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on March 1, 2011, in compliance with Nebraska Statute §84-1413(5).