

**REAL PROPERTY APPRAISER BOARD**  
**Conference Room "F", Lower Level**  
**NEBRASKA STATE OFFICE BUILDING**  
**301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**June 21, 2012 Meeting Minutes**

**A. OPENING**

Chairman Brad Moore called to order the June 21, 2012 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in conference room F located on the lower level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

**B. 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 email. Publication of official notice of the meeting appeared in the June 19, 2012 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 Bradford Moore, Tom Kubert, Philip Barkley, and Marc Woodle were present. David Hartman was absent and excused. Also present were Director, Tyler Kohtz, and Staff Assistant, Kirsten Casburn.

**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 Barkley moved to adopt the Agenda as printed. Board Member Kubert seconded the motion. With no further discussion, the motion carried with Barkley, Kubert, Woodle and Moore voting aye.

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

Board Member 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 9:10 a.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Woodle and Moore voting aye.

Break from 10:00 a.m. to 10:15 a.m.

Board Member Barkley moved to come out of executive session at 12:03 p.m. Board Member Kubert seconded the motion. The motion carried with Kubert, Woodle, Barkley and Moore voting aye.

Break from 12:03 p.m. to 12:15 p.m.

### **WELCOME GUESTS**

Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log. Members of the public in attendance were Diane Moore, Eldon Terrell, and Bob Hallstrom.

### **F. APPROVAL OF THE MINUTES FROM MAY 17, 2012**

Chairman Moore asked for any additions or corrections to the May 17, 2012 minutes. With no further discussion Board Member Barkley moved to adopt the minutes as presented. Board Member Woodle seconded the motion. The motion carried with Barkley, Kubert, Woodle and Moore voting aye.

### **G. CHAIRMAN'S REPORT**

Chairman Moore welcomed guests to the board meeting. The Chairman then brought attention to the exit interview meeting that he and the Director attended with the State Auditor Mike Foley and his staff. The Attestation Report and specific exit interview items were discussed. The Board has ten days from the date of the exit interview meeting to respond in writing to the findings in the Attestation Report.

### **H. DIRECTOR'S REPORT**

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of June 21, 2012. The Director summarized each chart and reported the number of appraisers as follows: 87 total Licensed, 80 resident and 7 reciprocal; 207 total Certified Residential, 174 resident and 33 reciprocal; 367 total Certified General, 262 resident and 105 reciprocal; and 16 Registered for a total of 677 appraisers. Total number of appraisers is up 4 from May, but significantly down from the 767 in June 2011 due to the drop in the number of Registered/Conversion appraisers. After a drop between December 2011 and January 2012 due to renewals, the number of appraisers is currently trending upwards slowly.

The Director also addressed the number of temporary permits issued, which has held steady during the previous twelve month period, and during the previous five year period. There were 16 permits issued in May. In addition, Director Kohtz reported 74 AMCs registered, and no new AMC applications have been submitted since the last meeting.

Finally, Director Kohtz brought attention to the June 7<sup>th</sup> strategic planning meeting. The Director indicated that the meeting was huge success, and the goals and objectives set by the Board not only reflect the Board's mission, but also provides direction as to what the Board will become. Director Kohtz once again thanked the board members for their attendance and hard work.

### **I. FINANCIAL REPORT – MAY 2012**

The receipts and expenditures for May were reviewed by the Director by line item with the Board. Director Kohtz made note of some unusual expenses that accounted for a large part of the May expenses. Board Member Barkley brought attention to the March 2012 Office Depot expense found on the general ledger. Director Kohtz will provide a breakdown of the March Office Depot expenses at the July meeting.

The Director reported on the May activity for both the appraiser fund and the AMC fund. For the appraiser fund, #25310, a total of \$28,175.93 in expenditures and \$5,641.47 in receivables were reported. For the AMC fund, #25320, a total of \$152.00 in expenditures and \$3,067.90 in receivables were reported. Considerations were made for expenditures for monthly obligations. No considerations were made for expenditures other than monthly obligations. As of the end of May, expenses amount to 92 percent of the budgeted expenditures for the fiscal year. Director Kohtz presented three charts outlining the Agency twelve month expenses and revenues, historic cash balance, and twelve month cash balance.

Board Member Kubert moved to accept and file the May 2012 Budget Status reports for receipts and expenditures for audit. Board Member Woodle seconded the motion. The motion carried with Kubert, Woodle, Barkley and Moore voting aye.

## **J. GENERAL PUBLIC COMMENTS**

Chairman Moore asked for any public comments. With no comments the Chair proceeded to applicants and enforcement matters.

## **K. EDUCATION**

### **1. AQB/CAP Core Curriculum Requests: None**

Board Member Kubert moved to approve the following courses as listed:

### **2. Continuing Education Renewal Requests**

#### **A. Appraisal Institute, Chicago, IL:**

1. "Appraising Convenience Stores"/ 7 hours / C2308-I

#### **B. McKissock, LP, Warren, PA:**

1. "Private Appraisal Assignments"/ 7 hours / C2738-I

### **3. Continuing Education Requests**

#### **A. The Moore Group, Lincoln, NE:**

1. "FHA Appraising"/ 7 hours / C21231
2. "Appraising Complex Residential Properties"/ 7 hours / C21229
3. "Appraising Residential Markets"/ 4 hours / C21230

Seconded by Barkley. Chairman Moore called for the vote. The motion carried with Woodle, Barkley and Kubert voting aye. Moore abstained.

### **4. Instructor Approval Requests: Board Member Kubert moved to approve the following instructors as listed:**

#### **A. Appraisal Institute, Chicago, IL:**

1. Robert E. Bainbridge – Appraising Convenience Stores (C2308-I)

#### **B. McKissock, LP, Warren, PA:**

1. Charles Fisher – Private Appraisal Assignments (C2738-I)

**C. The Moore Group, Lincoln, NE:**

1. Diane Moore - FHA Appraising (C21231), Appraising Complex Residential Properties (C21229), Appraising Residential Markets (C21230)
2. Bradford Moore - FHA Appraising (C21231), Appraising Complex Residential Properties (C21229), Appraising Residential Markets (C21230)

Second by Barkley. With no further discussion, Chairman Moore called for the vote. The motion carried with Woodle, Barkley and Kubert voting aye. Moore abstained.

**L. UNFINISHED BUSINESS**

1. **2012 AUDIT UPDATE:** The Board discussed the auditor's findings on the exit interview agenda and in the draft copy of the Attestation Report. Director Kohtz brought attention to specific items that have already been corrected, or are in the process of being corrected. During review of each item, the Board provided feedback to the Director to help formulate Board responses to each of the auditor's findings in the draft Attestation Report. Director Kohtz will draft the response letter and email it to each board member for review prior to submitting it to the Auditor's Office. Overall, the Board felt that the audit was a positive and enlightening experience.
2. **ALABAMA LETTER TO AMCS:** Director Kohtz summarized the response received from the Alabama Real Estate Appraiser Board's Executive Director, Lisa Brooks, regarding the Alabama Board's letter to AMCs concerning "customary and reasonable fees." Ms. Brooks indicated that the Alabama Board requested the responses from AMCs for informational purposes only, and has no intended use for the responses.
3. **APPOINTMENT OF AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS UPDATE:** Director Kohtz provided an update on the search for Board Member Hartman's replacement to the Board. Emails were sent to the Nebraska Department of Banking and Finance, the Nebraska Independent Community Bankers, and the Nebraska Bankers Association to notify each entity of the opening. Joni Sundquist with the Nebraska Bankers Association indicated that the opening would be advertised in their newsletter. A discussion also took place regarding the number of applications received to date, and the Board requested that Director Kohtz inform the Governor's office to proceed with a selection if no more applications are received prior to July 4, 2012. If additional applications are received, the Board will re-evaluate the number and quality of applications at the July meeting.
4. **COUNTY APPRAISER CONTRACTS:** A letter requesting a response was sent to each County Assessor's office which stated in the Nebraska Tax Equalization and Review Commission's statewide equalization proceedings exhibits that the county contracts for appraisal services. The letter was reviewed by the Board, and an update on the requested responses was provided by the Director. Responses were just starting to be received at the Board's office. The Director will report on this matter again at the July meeting.

5. **REQUEST TO NEBRASKA BAR ASSOCIATION REGARDING CE INSTRUCTORS:** Director Kohtz sent an email to the Nebraska Bar Association requesting information regarding the Bar Association's policies pertaining to multiple instructors for continuing education courses. No response was received.
6. **NEW CREDENTIAL UPDATE – TOM KUBERT:** No new information.

#### **M. NEW BUSINESS**

1. **ALASKA SUPREME COURT OPINION:** An opinion issued by the Alaska Supreme Court concerning adjudication by the Alaska Board of Certified Real Estate Appraisers that imposed professional sanctions on an appraiser for allegedly violating USPAP was reviewed by the Board. In the opinion, the Alaska Supreme Court explained that the Alaska Board's adjudication was reversed because the board's findings were not supported by substantial evidence. The Board discussed the importance of gathering sufficient evidence and conducting a well-rounded investigation. In addition, the Board plans to have a Compliance Officer in place by July 2014.
2. **AUTHORITY TO CHARGE AMC ADMINISTRATIVE FEES:** Director Kohtz brought attention to an administrative fee charged to AMCs for documentation of good standing. The Director indicated that he could not find authority for this fee, and requested Assistant Attorney General Hart's opinion on the fee. Ms. Hart indicated that the Board cannot charge any fee, unless the authority is statutorily granted to the Board for such fee. The Board will include AMC administrative fees in the 2015 statute change discussions.
3. **AUTHORITY TO RESTRICT CREDENTIAL HOLDER'S SCOPE OF WORK:** Discussion took place regarding the Board's authority to restrict a credential holder's scope of work based on a response provided from Assistant Attorney General Hart to Director Kohtz. The Board can only restrict a credential holder's scope of work within the authority granted through the statutes.
4. **LICENSED APPRAISERS IN MASSACHUSETTS:** The Board reviewed an article regarding the decline in the number of appraisers in Massachusetts, and discussed the reasons why the number of appraisers is declining nationally. The Board also discussed what needs to be done to reverse the trend.
5. **NRPAB DATABASE UPGRADE:** Director Kohtz reported on the estimate provided by the CIO's office for upgrading the database. The overall estimate is \$66,000.00 for the upgrade, which includes incorporating all information for applicants, credential holders, AMCs, enforcement, education, and instructors into one database, along with creating all reports requested to streamline operations. Director Kohtz has requested that the CIO's office provide a breakdown of this estimate into smaller projects, some of which are critical. The Director will report any new developments to the Board regarding the upgrade as the information becomes available.

**6. SUPERVISION FOR EXPERIENCE OBTAINED IN NON-TRADITIONAL AREAS:**

The Board discussed supervision requirements for applicants that obtain experience in non-traditional areas. A county employee doing USPAP compliant mass appraisal work was mentioned as an example. Up to 25% of mass appraisal work may be used as experience for credentialing, but many county employees exempt from the Act do not have a certified credential holder overseeing the work. The Board requested that the Director contact the Appraisal Foundation for guidance on this matter.

- 7. THE AMC FULL-FEE HYPOTHESIS:** A paper titled “The AMC Full-Fee Hypothesis” was discussed by the Board. The author of this paper indicates that nearly all issues between AMCs and appraisers will be solved if AMCs would pay the appraiser’s full fee requested. Director Kohtz pointed out specific flaws in the author’s reasoning, but commended the author for thinking outside of the box about the relationship between AMCs and appraisers. The Board will continue to monitor the rapport between AMCs and appraisers.

**N. BOARD POLICIES AND PROCEDURES**

- 1. BOARD POLICIES:** Discussion took place regarding the current Board Policies. Board Member Kubert moved to take the following actions as listed:

**01-02 / Retired**

**02-01 / Retired**

**02-03 / Retired**

**02-06 / Retired**

**03-02 / Retired**

**03-03 / Retired**

**03-05 / Retired**

**06-01 / Retired**

**06-06 / Retired**

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

Board Member Barkley moved that the Board go back into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. The time on the meeting clock was 2:39 p.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Barkley, Kubert and Moore voting aye.

Board Member Barkley moved to come out of executive session at 3:10 p.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Woodle and Moore voting aye.

**C. CONSIDERATION OF APPLICANTS**

- 1. CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:** Board Member Barkley moved to take the following actions for credentialing applicants as listed:

**ST212 / Approved for Trainee License**  
**CR393 / Approved for credentialing as Certified Residential Appraiser**  
**CG637 / Approved for credentialing as Certified General Appraiser**  
**CG638 / Approved for credentialing as Certified General Appraiser**  
**CG631 / Denied**  
**CR391 / Hold; select three additional reports off new log submitted**  
**L603 / Approved for credentialing as Licensed Appraiser**  
**T212058 / Original decision to deny temporary permit for project stands**

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

**D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:**

Vice Chair Barkley moved to take the following enforcement actions:

- 11-03 Extend education deadline to September 10, 2012
- 11-04 Extend education deadline to September 10, 2012
- 11-05 Hold
- 11-12 Hold
- 11-13 Hold
- 11-21 Hold
- 11-22 Hold
- 11-26 Hold
- 11-27 Hold; Director to follow up with Attorney General's office for advisement
- 12-03 Hold
- 12-06 Hold
- 12-10 Hold
- 12-11 Request from Respondent, true copies of all appraisal reports and workfiles associated with this address completed within the last three years
- 12-12 Hold
- 12-13 Dismissed without Prejudice
- 12-14 Request from Respondent, true copies of all appraisal reports and workfiles associated with this address
- 12-15 Request from Respondent, true copies of all appraisal reports and workfiles associated with this address
- 12-16 Request from Respondent, true copies of all appraisal reports and workfiles associated with this address

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

**E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS**

The Board reviewed information and discussed details pertaining to an organization that has allegedly engaged in business as an AMC in Nebraska without first obtaining registration issued by the Board. Vice Chair Barkley moved to open a new investigation, 12-17, and send a letter to organization notifying it of its obligations to adhere to the AMC Registration Act. Board Member Kubert seconded the motion. Motion carried with Woodle, Kubert, Barkley and Moore voting aye.

The Board discussed the response received from an organization to the Board's inquiry concerning documentation obtained from an organization's website. It is the Board's opinion that the organization is offering an estimate or opinion of value of real estate for the purpose of real estate taxation appeals. A motion was made by Board Member Barkley to open a new investigation, 12-18, and write a letter notifying the organization to cease and desist from all conduct which requires credentialing as a real property appraiser in the State of Nebraska. The motion was seconded by Board Member Woodle, and carried with Woodle, Barkley and Moore. Kubert abstained.

**O. NEXT MEETING DATE – JULY 19, 2012, LOWER LEVEL “F” NSOB**

**P. ADJOURNMENT**

Board Member Kubert moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried with Barkley, Woodle, Kubert and Moore voting aye.

At 3:17 p.m. Chairman Moore adjourned the June 21, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for July 19, 2012 in Conference Room F located on the Lower level of the NSOB.

Respectfully submitted,

Tyler N. Kohtz  
Director

These minutes were available for public inspection on July 3, 2012, in compliance with Nebraska Statute §84-1413(5).