

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

July 19, 2012 Meeting Minutes

A. OPENING

Chairman Brad Moore called to order the July 19, 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 July 17, 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 9:01 a.m. Board Member Kubert seconded the motion. The motion carried with Kubert, Woodle, Barkley and Moore voting aye.

Break from 10:20 a.m. to 10:32 a.m.

Board Member Barkley moved to come out of executive session at 11:50 a.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Barkley, Kubert and Moore voting aye.

Break from 11:50 a.m. to 12:10 p.m.

WELCOME GUESTS

Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log. Diane Moore was the only public member in attendance.

F. APPROVAL OF THE MINUTES FROM JUNE 2012

Chairman Moore asked for any additions or corrections to the June 7, 2012 minutes. Board Member Barkley asked that David Hartman's absence be added to the minutes as excused. With no further discussion Board Member Barkley moved to adopt the minutes as amended. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Woodle and Moore voting aye.

Chairman Moore asked for any additions or corrections to the June 21, 2012 minutes. Board Member Barkley asked that David Hartman's absence be added to the minutes as excused. With no further discussion Board Member Barkley moved to adopt the minutes as amended. Board Member Kubert seconded the motion. The motion carried with Kubert, Woodle, Barkley and Moore voting aye.

G. CHAIRMAN'S REPORT

Chairman Moore welcomed board members and staff to the meeting, and spoke about the congressional hearing on appraisal oversight that took place on June 28, 2012. The Appraisal Foundation testified before the U.S. House of Representatives, Committee on Financial Services, Subcommittee on Insurance, Housing and Community Opportunity. Chairman Moore was pleased to find that many of the issues being discussed at the federal level are issues currently being addressed at the state level. Some of the topics covered during the hearing included enforcement of Title XI, effects of Dodd-Frank, appraiser and appraisal requirements, and AMC regulation.

H. DIRECTOR'S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of July 19, 2012. The Director summarized each chart and reported the number of appraisers as follows: 89 total Licensed, 82 resident and 7 reciprocal; 209 total Certified Residential, 176 resident and 33 reciprocal; 371 total Certified General, 263 resident and 108 reciprocal; and 16 Registered for a total of 685 appraisers. Total number of appraisers is up 8 from June, but significantly down from the 766 in July 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 decreased drastically during the last month. There were 7 permits issued in June compared to 16 permits issued in May. In spite of the decrease last month, the number of temporary permits has held steady during the previous five year period. In addition, Director Kohtz reported 77 AMCs registered, and two new AMC applications have been submitted since the last meeting.

Finally, Director Kohtz mentioned that budget discussions will take up a large part of the next meeting, so there may not be many new items on the agenda next month.

I. FINANCIAL REPORT – JUNE 2012

The receipts and expenditures for June were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific June expenses. Director Kohtz then summarized the expenditures and revenues for the fiscal year end, which ended with \$281,476.03 in expenditures and \$421,007.04 in receivables. As of the end of June, expenses amount to 90 percent of the budgeted expenditures for the fiscal year.

The Director reported on the June activity for the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund. A total of \$16,419.76 in expenditures and \$14,323.99 in receivables were reported. Considerations were made for expenditures for monthly obligations. No considerations were made for expenditures other than monthly obligations. 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 June 2012 Budget Status reports for receipts and expenditures for audit. Board Member Barkley 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 education.

K. EDUCATION

1. AQB/CAP Core Curriculum Requests: None

2. Continuing Education Requests: Board Member Barkley moved to approve the following courses as listed:

A. Appraisal Institute, Chicago, IL:

1. "Marketability Studies: Advanced Considerations and Applications" / 7 hours / C212331.
2. "UAD Aftereffects: Efficiency vs. Obligation" / 7 hours / C21234

B. U.S. Department of Housing and Urban Development, Denver, CO:

1. "The FHA Appraisal" / 7 hours / C21057

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

3. Instructor Approval Requests: Board Member Barkley moved to approve the following instructors as listed:

A. Appraisal Institute, Chicago, IL:

1. Stephen Fanning - Marketability Studies: Advanced Considerations and Applications (C21233)
2. Dawn Molitor-Gennrich - UAD Aftereffects: Efficiency vs. Obligation (C21234)

B. U.S. Department of Housing and Urban Development, Denver, CO:

1. Tonia Zambrano – The FHA Appraisal (C21057)
2. Gary Eisenbraun – The FHA Appraisal (C21057)
3. Joseph O’Dorisio – The FHA Appraisal (C21057)
4. Andrew Eckel – The FHA Appraisal (C21057)
5. Karl Kaufmann – The FHA Appraisal (C21057)

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

L. UNFINISHED BUSINESS

1. **2012 AUDIT UPDATE:** Director Kohtz provided the Board’s response to the Auditor of Public Accounts’ findings, along with the final copy of the Attestation Report for the Board to review.
2. **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. 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.
3. **COUNTY APPRAISER CONTRACTS:** The Director reported that responses to the Board’s inquiries are still being submitted by counties. Director Kohtz and Board Member Kubert will compile the information and present the findings to the Board at the September meeting.
4. **NEW CREDENTIAL UPDATE – TOM KUBERT:** Director Kohtz asked if the Board intends to put a committee together to develop the requirements and scope of work for the new credential. The Board plans to have the structure for the associate pool in place for discussion by the 2015 law change committee.
5. **SUPERVISION FOR EXPERIENCE OBTAINED IN NON-TRADITIONAL AREAS:** Director Kohtz presented the questions asked to the Appraisal Foundation, and reported that no response has been received to date. The Board requested that Director Kohtz send a second email with a read notification included.

Break from 2:17 p.m. to 2:26 p.m.

M. NEW BUSINESS

1. **AARO CONFERENCE:** Chairman Moore asked who plans to attend the AARO Conference October 13th through 16th. The Director and the Chairman will be attending. No other board members committed, but if any other board member decides to go, the Director will be notified. Board Members Kubert and Woodle indicated their interest in AARO investigative training.

2. **BETTER DEFINING TRAINEE:** Discussion took place regarding requirements for an appraiser trainee compared to a Trainee Real Property Appraiser. As of now, the requirements for an appraiser trainee are not very well defined. Chairman Moore brought attention to chapter three that was removed from the Real Property Appraiser Act, and indicated that the requirements for an appraiser trainee were found there. When the Trainee Real Property Appraiser credential was created, the requirements were moved to that area. It is not stated in the Act that these requirements apply to all appraiser trainees. Director Kohtz will include the old chapter three in the Board Packet for next month for the Board to review.
3. **COST OF INVESTIGATIONS:** Director Kohtz brought attention to an opinion written by Bill Blake in November of 2007. The Board has the authority to require appraisers that enter into a Consent Agreement with the Board to pay costs associated with the investigation. Currently, the Board is not exercising this authority. Director Kohtz mentioned the high cost of having a Standard 3 review done related to an investigation and indicated that this is a way to recoup these costs. The Board agreed that future Consent Agreements should include cost associated with investigation.
4. **DISTRIBUTION OF USPAP BOOKS TO CREDENTIAL HOLDERS:** Director Kohtz indicated that he will be working on the next biennium budget during the next couple weeks, and would like the Board to consider not distributing USPAP books to all resident credential holders that renew their credential. Director Kohtz pointed to the fact that the Board is not statutorily required to distribute these books to those that renew their credential, and the latest edition cost the Board \$16,000.00. In the Director's opinion, the money would be better spent addressing other budgetary items, and if the Board feels it is important for resident credential holders to have a current copy of the USPAP Standards, then another method could be found to distribute the USPAP Standards.

A discussion took place regarding the misconception that the USPAP book is a part of the renewal fee. The renewal fee is the fee for renewing the credential, and the USPAP book is provided by the Board at no cost to the credential holder. The Board also discussed the importance of resident appraisers having a current copy of the USPAP Standards, and other potential methods of distributing the USPAP Standards to resident appraisers. After discussion, the Board decided that it is important to continue distributing these books to resident credential holders for the time being. Director Kohtz will include the USPAP book expenditure in the next biennium budget.

5. **NEW POCKET CARD:** Director Kohtz presented a plan to the Board to upgrade the pocket cards. The old pocket cards are no longer applicable after board staff upgraded its computers, because the pocket card printer drivers cannot be installed on the new computers. Director Kohtz intends to incorporate the pocket card into the Board's database, and the card will be printed on stock pocket card paper, which will cost approximately the same as the current pocket card paper. The Office of the Chief Information Officer will make the upgrades to the database to incorporate the new pocket card at an estimated cost of \$4,007.75.
(continued next page)

(continued from previous page)

The Board discussed the plan presented by the Director, and also the relevancy of the pocket card today. It was agreed that pocket cards are typically scanned and sent to entities that request a copy, but not very many appraisers actually carry his or her pocket card. Issuance of a pocket card is a statutory requirement, but there are no design requirements. The Board asked the Director if it would be possible to design the pocket card to fit on an 8 x 11 sheet of paper, so that credential holders can print off a copy when needed. Director Kohtz responded that this would not be a problem. Director Kohtz will discuss the Board's request with the CIO's office and report back to the Board at the next meeting.

N. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. NEW BOARD POLICIES:** Discussion took place regarding three new Board Policies introduced. The Board asked that Board Policy 12-05 be amended to remove the language "an effective date of more than five years," and add "a report date that has exceeded its USPAP retention." The Board also felt that the maximum fees were too low for residential and 2-4 family Standard 3 reviews as indicated in Board Policy 12-07. The Board asked that the maximum limit for both be set at \$450.00. The Board also felt that the maximum for an agricultural and commercial Standard 3 review was reversed; agricultural should be \$625.00, and commercial should be \$750.00. Finally, the Board asked that the last sentence be removed. Director Kohtz stated that he will make the requested changes. Board Member Kubert moved to take the following actions as listed:

12-05 / Approved as Amended
12-06 / Approved
12-07 / Hold for Revision

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

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

03-01 / Retire
04-01 / Retire
06-08 / Retire

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

2. STANDARD 3 REVIEW FORM UPDATES

- a. 2010-2011 STANDARD 3 COMPLIANCE REVIEW REPORT (for use on reviews):** Director Kohtz presented a new Standard 3 Compliance Review Report for use on reviews for the Board to review. The Board asked that the questions referencing the "review appraiser" be changed to reference the "review appraisal report". Discussion took place regarding the content that should and should not be included in the Standard 3 Compliance Review Report. Chairman Moore asked that the Board not take any action on the form until the board members each have a chance to review the form and provide feedback to the Director.

- b. 2012-2013 STANDARD 3 COMPLIANCE REVIEW REPORT (for use on reports):** Director Kohtz presented a new Standard 3 Compliance Review Report for use on reports for the Board to review. Based on the conversation regarding the 2010-2011 Standard 3 Compliance Review Report, the Board will take no action on this form until the board members each have a chance to review the form and provide feedback to the Director.

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 3:40 p.m. Board Member Kubert seconded the motion. The motion carried with Kubert, Barkley, Woodle and Moore voting aye.

Board Member Barkley moved to come out of executive session at 4:50 p.m. Board Member Woodle 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:

CR395 / Approved for credentialing as Certified Residential Appraiser

CR396 / Approved for credentialing as Certified Residential Appraiser

CG636 / Approved for credentialing as Certified General Appraiser

CG641 / Approved for credentialing as Certified General Appraiser

CG639 / Denied

CR391 / Hold; request 25 additional residential reports completed under the supervision of a certified appraiser. Each report must be co-signed by the supervising appraiser.

CG640 / Hold; Director granted authority to issue credential contingent on receiving evidence that applicant's rights have been restored.

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

- 2. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:** Board Member Barkley moved to take the following actions for AMC applicants as listed:

NE2012081 / Approved

NE2012082 / Approved

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Barkley moved to take the following enforcement actions:

- 11-03 / Hold**
- 11-04 / Hold**
- 11-05 / Close**
- 11-12 / Hold**
- 11-13 / Send cease and desist letter and contact Hall County Attorney**
- 11-21 / Hold**
- 11-22 / Hold**
- 11-26 / Offer informal hearing to Respondent**
- 11-27 / Hold**
- 12-03 / Hold**
- 12-06 / Hold**
- 12-10 / Hold**
- 12-11 / Send appraisal report and workfile for Standard 3 compliance review**
- 12-12 / Hold**
- 12-14 / Send appraisal report and workfile for Standard 3 compliance review**
- 12-15 / Send appraisal report and workfile for Standard 3 compliance review**
- 12-16 / Send most recent appraisal report and workfile for Standard 3 compliance review**
- 12-17 / Dismiss without Prejudice; send advisory letter informing organization of statutory requirement to register prior to conducting business in Nebraska.**
- 12-18 / Hold; Board Member Kubert to make a list of questions to ask County Attorneys**
- 12-19 / Send letter notifying Respondent of Grievance and requesting a response to allegations**

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed two appraisal reports discovered by board members during routine business. Both appraisal reports appear to be non-compliant with the USPAP Standards. A motion was made by Board Member Barkley to open a new investigation, 12-20, 12-21, and 12-22, and request a true copy of the appraisal report and workfile from each Respondent. Once received at the Board's office, each appraisal report and workfile will be sent for Standard 3 compliance review. The motion was seconded by Board Member Woodle, and carried with Kubert, Woodle, Barkley and Moore.

The Board reviewed information and discussed details pertaining to an organization that appears to be offering an estimate or opinion of value of real estate through its software. According to public information on file in a Nebraska county, the organization has provided valuation services to a local lender for use in the mortgage underwriting process. A copy of this report and representation of its use was recently submitted as evidence for a real estate assessment appeal in a Nebraska county. The Board agreed that more research is needed to better understand the services provided by the organization in Nebraska, and assigned identification number I12-1 to this matter.

The Board reviewed information pertaining to two organizations that allegedly engaged in business as an AMC in Nebraska without first obtaining registration issued by the Board. One organization was reported by a board member, and the other organization was reported by the Director based on an email chain obtained from a Nebraska credentialed appraiser. The Board agreed that both organizations need to be notified of its obligations to adhere to the AMC Registration Act. These organizations were assigned identification numbers I12-2 and I12-3.

Vice Chair Barkley moved to take the following actions for the above mentioned matters:

I12-1 / Send letter of inquiry requesting written response regarding organization's current business practices in Nebraska

I12-2 / Send letter notifying organization of its obligation to adhere to the AMC Registration Act

I12-3 / Send letter notifying organization of its obligation to adhere to the AMC Registration Act

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

The Board discussed a request from a credentialed appraiser for a waiver of 14 continuing education hours. The appraiser is a reciprocal appraiser, and his resident state is Iowa. The Board referred to its rule that Nebraska will honor the continuing education requirements of a reciprocal credential holder's resident state. If Iowa renews his credential, then Nebraska will honor it. The Board requested that the Director contact the individual and inform him of 298 NAC Chapter 4, Section 006.

The Board discussed current credential holders that were awarded credentials with a restricted scope of work by past boards. The Real Property Appraiser Act does not allow the Board to issue a credential to an applicant without meeting the requirements specified in the Act. The Board agreed that these individuals should not hold a credential without meeting the minimum requirements; furthermore, the Board's compliance with federal regulations may be affected. The Board is currently formulating a plan to address this issue.

O. NEXT MEETING DATE – AUGUST 15, 2012, LOWER LEVEL “F” NSOB

P. ADJOURNMENT

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

At 4:59 p.m. Chairman Moore adjourned the July 19, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for August 15, 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 August 2, 2012, in compliance with Nebraska Statute §84-1413(5).