

REAL PROPERTY APPRAISER BOARD
Real Property Appraiser Board Office, Lower Level
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE

September 20, 2012 Meeting Minutes

A. OPENING

Chairman Brad Moore called to order the September 20, 2012 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., at the Nebraska Real Property Appraiser Board office 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 September 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, Marc Woodle and Eldon Terrell were present. 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, Woodle, Terrell, Kubert 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, applicants for appraisal management company registration, investigations, and other sensitive matters. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. The time on the meeting clock was 9:01 a.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Terrell, Kubert, Barkley and Moore voting aye.

Break from 10:23 a.m. to 10:34 a.m.

Board Member Barkley moved to come out of executive session at 12:01 p.m. Board Member Terrell seconded the motion. The motion carried with Terrell, Kubert, Barkley, Woodle and Moore voting aye.

Break from 12:01 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. Diane Moore was the only public member in attendance.

F. APPROVAL OF THE MINUTES FROM AUGUST 2012

Chairman Moore asked for any additions or corrections to the August 15, 2012 minutes. Board Member Barkley asked that “non-residential” be inserted before “experience” in the last sentence found under “Better Defining Trainee.” Board Member Kubert also brought attention to the action for Investigation 11-13, and indicated that it should read the same as Investigation 12-18. Director Kohtz informed the Board that the requested changes will be made to the minutes. With no further discussion Board Member Barkley moved to adopt the minutes as amended. Board Member Woodle seconded the motion. The motion carried with Kubert, Barkley, Woodle, Terrell and Moore voting aye.

G. CHAIRMAN’S REPORT

Chairman Moore welcomed board members and staff to the meeting, and started by describing issues that he expects to be covered at the AARO conference in October that will be attended by himself, Board Members Barkley and Kubert, and Director Kohtz. The Chairman proceeded to address the Appraisal Subcommittee’s proposed policy changes, the Appraisal Foundation’s proposed supervisory appraiser and trainee appraiser course objectives and content outline, and finally the second exposure draft of proposed USPAP changes for 2014-15. The Chairman mentioned specific changes that the Board must address in the future, including implementation of background checks for appraisers, requirements for AMCs specified in the Dodd-Frank Act, and the upcoming changes to USPAP. Chairman Moore also communicated the importance of informing the appraiser community of the USPAP changes in late 2013.

H. DIRECTOR’S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of September 20, 2012. The Director summarized each chart and reported the number of appraisers as follows: 88 total Licensed, 81 resident and 7 reciprocal; 211 total Certified Residential, 177 resident and 34 reciprocal; 373 total Certified General, 264 resident and 109 reciprocal; and 16 Registered for a total of 688 appraisers. The total number of appraisers is the same as in August, but significantly down from the 771 in September 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. There were 11 permits issued in August compared to 16 permits issued in July. With the exception of June, the number of temporary permits has held steady during the previous twelve months, and has slowly increased during the previous five years. Finally, Director Kohtz reported 83 AMCs registered, and 3 new AMC applications have been submitted since the last meeting.

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The Appraisal Subcommittee released its proposed policy changes. Director Kohtz highlighted a few policy changes, including resident state reciprocity requirements for resident state appraisers to be eligible to perform federally related transactions in other jurisdictions, the potential effects that a non-compliant reciprocity policy in other jurisdiction might have on Nebraska resident appraisers, Title XI requirements that gives the Appraisal Subcommittee the authority to determine whether state has sufficient funding and staffing to meet Title XI requirements, and that internal policies must promote compliance with Title XI and the Appraisal Subcommittee's policy statements when private entities or contractors are utilized for program functions. The Director communicated that the Appraisal Subcommittee's audits are based on the policies in place, and that the Board appears to be in compliance with all the policies as listed.

Finally, the Director brought attention to the second exposure draft of proposed changes for the 2014-15 edition of USPAP. Director Kohtz indicated that the major change found in the draft is the retirement of Standards 4 and 5. The document was included in the back of the Board Packet for each member to review.

I. FINANCIAL REPORT – AUGUST 2012

The receipts and expenditures for August were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific August expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$15,443.62 in expenditures and \$16,550.19 in receivables were reported. As of the end of August, expenses amount to 10 percent of the budgeted expenditures for the fiscal year. 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. The Director also brought attention to the fact that for the first time in at least five years, revenues exceeded expenses for the month of August.

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

Board Member Barkley moved to approve the following continuing education courses as listed:

2. New Continuing Education Requests

A. McKissock, Warren, PA:

1. Understanding the UAD / 3 hours / C21235-I

B. Appraisal Institute, Chicago, IL:

1. International Financial Reporting Standards / 15 hours / C21242

3. Continuing Education Renewal Requests

A. Appraisal Institute, Chicago, IL:

1. Cool Tools: New Technology for Real Estate Appraisers / 7 hours / C2768-I
2. Condominiums, Co-Ops, and PUDs / 7 hours / C2769-I
3. Valuation of Conservation Easements / 33 hours / C2747
4. Online Basic Appraisal Principles / 28 hours / C2707-I
5. Online Basic Appraisal Procedures / 28 hours / C2708-I

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

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

A. McKissock, Warren, PA:

1. Tracy Martin - Understanding the UAD / C21235-I
2. Dan Bradley - Understanding the UAD / C21235-I

B. Appraisal Institute, Chicago, IL:

1. Wayne Pugh - Cool Tools: New Technology for Real Estate Appraisers / C2768-I
2. Alan Simmons - Condominiums, Co-Ops, and PUDs / C2769-I
3. Frank Harrison - Valuation of Conservation Easements / C2747
4. Paul Thomas - International Financial Reporting Standards / C21242
5. Richard DuBay - Online Basic Appraisal Principles / C2707-I
6. Thomas Kirby - Online Basic Appraisal Procedures / C2708-I

C. Mid-West Appraisers Association, Kearney, NE:

1. John Seuntjens - The Professional Appraiser / C21034
Certified General Report Writing Update / C21035
Enhancing Appraisal Practice / C21155
Sales Comparison Methodology / C21158

D. Trans-America Institute of Professional Studies, Kearney, NE:

1. John Seuntjens – Certified General Report Writing and Case Studies / CG007

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

Break from 2:00 p.m. to 2:08 p.m.

L. UNFINISHED BUSINESS

1. **COUNTY APPRAISER CONTRACTS UPDATE:** Director Kohtz and Board Member Kubert reviewed the responses received from Nebraska counties concerning contracts for appraisal services. The Director presented a report outlining the findings and a plan to the Board. The Board received responses from fifty-five out of seventy-six counties. Twenty-four counties indicated that they have contracts with credentialed appraisers, eight counties indicated that they have no contracts, and twenty-three counties have contracts with individuals not credentialed or not qualified to appraise real property.
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A letter will be sent to each county that has a contract with an appraiser in compliance with the Real Property Appraiser Act describing appraiser scope of work requirements; a letter will also be sent to each county that has a contract with an individual not credentialed under the Act notifying it of the laws governing appraisal practice in Nebraska. Finally, a letter will be sent to each individual or organization identified as providing appraisal services to counties without the proper credentialing, requesting a response.

2. **NEW CREDENTIAL UPDATE:** Board Member Kubert met with Lancaster County to discuss the Board's plans for an Associate Pool. Board Member Kubert reported that Lancaster County is excited about the possibility. Some counties consider designation through IAAO, but it is rather expensive. The Associate Pool may offer counties a less costly alternative to the IAAO designation. The Board requested that Director Kohtz establish a timeline and goals for the Associate Pool to discuss at the October meeting.
3. **SUPERVISION FOR EXPERIENCE OBTAINED IN NON-TRADITIONAL AREAS:** Director Kohtz summarized the conversation from the August meeting. The Board felt that Magdalene Vasquez's response to the Director's email concerning supervision requirements for USPAP compliant experience gained through exempt work did not address the question. The Board considered implementing a policy to address this issue, but agreed that a policy may not fit all situations. The Board decided not to take any action regarding this matter, and also decided that it will continue to evaluate each applicant's experience on a case by case basis.
4. **NRPAB MISSION AND VISION STATEMENTS:** The board members each reviewed the proposed mission and vision statements prior to the meeting. A discussion took place regarding potential changes to each statement. The Director will make the changes recommended by the Board, and email the updated mission and vision statements to each board member for final review before the October meeting.

M. NEW BUSINESS

1. **2013 APPRAISAL SUBCOMMITTEE AUDIT:** The Director received notification from the Appraisal Subcommittee that it wishes to conduct its 2013 audit July 16th through July 18th. The Board did not see any potential conflicts with these dates. The Director will inform the Appraisal Subcommittee that July 16th through 18th will work for the Board.
2. **APPRAISAL BUZZ ARTICLE:** Director Kohtz summarized an Appraisal Buzz article titled "Number of Certified Appraisers on the Rise; Next Generation Key to the Future", and specifically mentioned the fact that there are 6,600 more certified appraisers now nationally compared to in 2006, but the number of licensed appraisers have declined 15,100 nationally during the same period. The Director also brought notice to the Appraisal Institute's priority to increase its presence in colleges and universities. The Board has the same goal at the state level.

3. **APPRAISAL MANAGEMENT COMPANY INDEMNIFICATION CLAUSES:** The Board reviewed an article, a letter, and an AMC contract during a discussion pertaining to AMC indemnification clauses. Board Member Barkley brought attention to the language in the contract, and expressed concern regarding the liability that an appraiser may be taking on by signing such a contract. The Board acknowledged that some states have statutes limiting the reach of indemnification clauses, but Nebraska does not at the present time. Indemnification clauses will be discussed during the next round of statute changes. It is important to the Board that Nebraska appraisers are made aware that such clauses exist in the contracts they may be signing with AMCs. Board Member Barkley made a motion to authorize Director Kohtz to send a “Memo from the Board” notifying Nebraska appraisers of indemnification clauses, and the importance of reading a contract before signing it. The motion was seconded by Kubert. Chairman Moore called for a vote, and the motion carried with Woodle, Terrell, Kubert, Barkley and Moore voting aye.
4. **CHANGE IN OWNERSHIP FOR CAREER WEBSCHOOL:** Education provider, Cengage Learning, Inc., indicated that it may sell its assets related to Career WebSchool to another organization. Career WebSchool is the subsidiary under which Cengage Learning offers board approved appraiser education in Nebraska. According to a letter received from Cengage Learning, Career WebSchool will remain intact in its current state after the sale is finalized. The Board was asked if approval for the Career WebSchool courses would automatically carry over to the new ownership. The Board requested that the Director check with Career WebSchool to verify that the sale took place, and if so, check with the Appraisal Foundation’s Appraiser Qualifications Board to verify that the Career WebSchool courses retained its AQB and IDECC approval under the new ownership. The Director will report the findings back to the Board at its October meeting.

N. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **NEW BOARD POLICIES:** Discussion took place regarding three new Board Policies introduced. The Board expressed concern regarding the language in Board Policy 12-10 that indicates that an enforcement action may not be published for more than ten years. The Board felt that the language should be more direct, and requested that “may not” be changed to “will.” The Board also felt that “received and processed” was too ambiguous in Board Policy 12-11, and requested that “and processed” be removed. The application fee becomes non-refundable when the application is received by board staff. Board Member Barkley moved to take the following actions as listed:

12-10 / Approved as Amended

12-11 / Approved as Amended

12-12 / Approved

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

- b. **CURRENT BOARD POLICIES:** No discussion took place
2. **NEW POCKET CARD:** The new pocket card format was presented to the Board for review. With no further discussion, Board Member Barkley made a motion to approve the pocket card as presented. The motion was seconded by Woodle, and carried with Barkley, Woodle, Terrell, Kubert and Moore voting aye.

3. **RECIPROCITY APPLICATION UPDATE:** The updated application for credentialing by reciprocity was presented to the Board for review. The Board requested that question 8a also ask for copies of official records to support the explanation provided, question 13 be removed completely because it is no longer relevant, and that the question “Are you engaged in, or have been engaged in during the previous 24 months, any lawsuit as the plaintiff or the defendant?” be added to the application.
4. **RENEWAL APPLICATION UPDATE:** The renewal application for 2013-14 renewals has been updated and was presented to the Board for review. The Board requested that question 1a also asks for copies of official records to support the explanation provided, and that the “Appraisal Practice Specialty” section be removed from the application. The Board discussed the purpose of this section, and will reconsider it for next year.

Board Member Barkley made a motion to take the following actions as listed.

**Reciprocity Application / Approved as Amended
Renewal Application / Approved as Amended**

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

5. **STANDARD 3 REVIEW FORM UPDATE:** Director Kohtz expressed concern with the progress made on the Standard 3 Review Form, and recommended that the Board select one or more board members to work with him to update this form. Chairman Moore volunteered to work with the Director on this task.

O. OTHER BUSINESS

1. APPRAISAL SUBCOMMITTEE OF THE FFIEC

- a. **PROPOSED REVISIONS TO THE ASC POLICY STATEMENTS:** No further discussion took place.

2. APPRAISAL FOUNDATION

- a. **SUPERVISORY APPRAISER AND TRAINEE APPRAISER COURSE OBJECTIVES:** No further discussion took place.
- b. **SECOND EXPOSURE DRAFT OF PROPOSED CHANGES FOR 2014-15 USPAP:** No further discussion took place.

3. CONFERENCES/EDUCATION

- a. **15-HOUR USPAP COUSE:** Director Kohtz requested approval to attend the 15-Hour USPAP Course at the agency’s cost. With no further discussion, Board Member Barkley made a motion to approve Director Kohtz’s request to attend the 15-Hour USPAP Course on December 3rd and 4th. The motion was seconded by Woodle, and carried with Kubert, Barkley, Woodle, Terrell and Moore.

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 3:29 p.m. Board Member Terrell seconded the motion. The motion carried with Barkley, Woodle, Terrell, Kubert and Moore voting aye.

Board Member Barkley moved to come out of executive session at 4:48 p.m. Board Member Woodle seconded the motion. The motion carried with Woodle, Terrell, Kubert, Barkley 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:

ST214 / Approved for Trainee License

L605 / Request written explanation from applicant and supervisor detailing applicant's participation in the appraisal process.

L606 / Approved to sit for exam and select reports for review

CR398 / Approved to sit for exam and select reports for review

CG643R / Approved for credentialing as Certified General Appraiser

CG644R / Approved for credentialing as Certified General Appraiser

CG645R / Approved for credentialing as Certified General Appraiser

CG646R / Approved for credentialing as Certified General Appraiser

CG647 / Request written explanation detailing the gaps in employment found on application, along with a log listing the appraisal experience obtained after April 28, 2012. Authority is granted to one board member to select three reports once applicant's response is received at the Board's office.

Board Member Kubert seconded the motion. Motion carried with Woodle, Terrell, Kubert, 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:

NE2012085 / Hold

NE2012086 / Approved

NE2012083 / Hold; request clarification regarding response to Question #10 on application.

NE2012088 / Approved

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Barkley moved to take the following enforcement actions:

11-03 / Notify Respondent of delinquency meeting deadlines specified in Consent Agreement, and request a written response.

11-04 / Extend deadline to October 9, 2012.

11-12 / Hold

11-13 / Prepare file for delivery to Lancaster County Attorney for consideration of formal charges.

11-21 / Hold

11-22 / Hold

11-26 / Remove scope of work from the Consent Agreement.

11-27 / Close investigation and assign inquiry number I12-5.

12-03 / Hold

12-06 / Offer Consent Agreement requiring Respondent to complete 15-Hour National USPAP course, submit quarterly log for four subsequent quarters effective at the execution of agreement, and pay \$750.00 for costs associated with investigation within 30 days of execution of agreement.

12-10 / Dismiss without Prejudice

12-11 / Hold

12-12 / Hold

12-14 / Hold

12-15 / Hold

12-16 / Hold

12-18 / Prepare file for delivery to Lancaster County Attorney for consideration of formal charges.

12-19 / Dismiss without Prejudice

12-20 / Hold

12-21 / Hold

12-22 / Hold

12-23 / Hold

12-24 / Offer informal meeting

12-25 / Request true copy of appraisal report and workfile

12-26 / Request true copy of appraisal report and workfile

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed the response received from organization concerning inquiry I12-1.

An appraisal discovered by a board member during routine business was discussed by the Board. The appraisal appears to be non-compliant with the USPAP Standards, and prepared by a non-credentialed individual. The Board assigned identification number I12-6 to the matter.

The Board discussed the response received from organization concerning inquiry I12-2.

The Board discussed the response received from organization concerning inquiry I12-3.

Application for registration as an AMC received from organization concerning inquiry I12-4.

The Board reviewed information pertaining to two organizations that allegedly engaged in business as AMCs in Nebraska without first obtaining registration issued by the Board. Both organizations were reported by the Director based email chains obtained from Nebraska credentialed appraisers. The Board agreed that both organizations need to be notified of its obligations to adhere to the AMC Registration Act. The organizations were assigned identification numbers I12-7 and I12-8.

The Board reviewed the work log provided by CG940123R as requested by the Board.

Two Certified Residential Appraisers whose “in lieu of” education was found to be deficient during the Appraisal Subcommittee’s 2011 audit made written requests to the Board for an extension to the education requirement deadline. The Board agreed to extend both deadlines to December 31, 2012.

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

- I12-2 / Send letter response letter notifying organization of its obligation to adhere to the AMC Registration Act**
- I12-3 / Send advisory letter**
- I12-6 / Send letter of inquiry requesting written response regarding appraisal obtained by the Board.**
- I12-7 / Send letter of inquiry requesting written response regarding organization's current business practices in Nebraska.**
- I12-8 / Send letter of inquiry requesting written response regarding organization's current business practices in Nebraska.**
- CR211060 / Extend education deadline to December 31, 2012.**
- CR211017 / Extend education deadline to December 31, 2012.**

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

P. NEXT MEETING DATE – OCTOBER 26, 2012, LOWER LEVEL “F” NSOB

Q. ADJOURNMENT

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

At 4:54 p.m. Chairman Moore adjourned the September 20, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for October 26, 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 October 4, 2012, in compliance with Nebraska Statute §84-1413(5).