

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

November 15, 2012 Meeting Minutes

A. OPENING

Chairman Brad Moore called to order the November 15, 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 November 12, 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 Eldon Terrell were present. Marc Woodle 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 Terrell, Kubert, Barkley 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 Kubert, Barkley, Terrell and Moore voting aye.

Break from 10:50 a.m. to 11:03 a.m.

Board Member Barkley moved to come out of executive session at 12:00 p.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Terrell, Kubert and Moore voting aye.

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 OCTOBER 2012

Chairman Moore asked for any additions or corrections to the October 26, 2012 minutes. Board Member Barkley brought attention to a spelling error found on page 5 under the heading “Engagement Letter for Appraisal Services.” He indicated that “on” in the third to the last sentence should read “or.” 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 Terrell seconded the motion. The motion carried with Terrell, Kubert, Barkley and Moore voting aye.

G. CHAIRMAN’S REPORT

Chairman Moore welcomed board members and staff to the meeting, and brought attention to the little amount of time that has passed since the October meeting. He went on to say that the annual NRPAB Christmas dinner will take place at Billy’s Restaurant on December 19th.

H. DIRECTOR’S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of November 15, 2012. The Director summarized each chart and reported the number of appraisers as follows: 87 total Licensed, 80 resident and 7 reciprocal; 211 total Certified Residential, 176 resident and 35 reciprocal; 378 total Certified General, 263 resident and 115 reciprocal; and 16 Registered for a total of 692 appraisers. The total number of appraisers is up one from October, but significantly down from the 775 in November 2011 due to the drop in the number of Registered/Conversion appraisers. The number of appraisers is currently trending upwards slowly. Director Kohtz also summarized the total number of appraisers excluding the Registered credential level for the past five years to illustrate that there has been a minimal decline in the number of Certified General, Certified Residential, and Licensed appraisers during the last two years.

The Director then addressed the number of temporary permits issued. There were 15 permits issued in October compared to 19 permits issued in September. The number of temporary permits issued each month continues to hold steady, and has slowly increased during the previous five years. Finally, Director Kohtz reported 89 AMCs registered, and 2 new AMC applications have been submitted since the last meeting.

I. FINANCIAL REPORT – OCTOBER 2012

The receipts and expenditures for October were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific October expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$24,581.15 in expenditures and \$29,843.67 in receivables were reported. As of the end of October, expenses amount to 23 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.

Board Member Kubert moved to accept and file the October 2012 Budget Status reports for receipts and expenditures for audit. Board Member Barkley seconded the motion. The motion carried with Kubert, Barkley, Terrell 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 Kubert moved to approve the following continuing education courses as listed:

2. New Continuing Education Requests: None

3. Continuing Education Renewal Requests

A. McKissock, Warren, PA:

1. The Evolution of Finance and the Mortgage Market / 4 hours / C2815-I

B. Appraisal Institute, Chicago, IL:

1. Residential Market Analysis and Highest and Best Use / 14 hours / C2773-I
2. Eminent Domain and Condemnation / 7 hours / C0099-I

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

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

4. Instructor Approval Requests

A. McKissock, Warren, PA:

1. Charles Fisher - The Evolution of Finance and the Mortgage Market / C2815-I

B. Appraisal Institute, Chicago, IL:

1. Thomas Kirby - Residential Market Analysis & Highest & Best Use / C2773-I
2. John Underwood - Eminent Domain and Condemnation / C0099-I

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

L. UNFINISHED BUSINESS

1. APPOINTMENT OF REAL ESTATE BROKER/CREDENTIALLED APPRAISER

BOARD MEMBER: The Director reported that he has received no news from the Governor's office.

2. COUNTY APPRAISER CONTRACTS UPDATE: No new information.

3. ENGAGEMENT LETTER FOR APPRAISAL SERVICES: Discussion took place regarding engagement letters that indicate if the credit is transferred to another entity, that entity shall be a part of the intended user(s)/client(s) for the appraisal report. The Board is concerned about this open-ended reference to the client(s). Board Member Moore will contact John Brennan to get the Appraisal Foundation's views on these types of terms found in engagement letters for appraisal services. This discussion will continue at the December meeting.

4. NEW CREDENTIAL UPDATE: No new information.

M. NEW BUSINESS

1. CLARIFICATION OF USPAP AND REPORT WRITING CE REQUIREMENTS:

Director Kohtz brought attention to the inconsistencies found between the statutory language and rules concerning the requirements for the USPAP Update and Report Writing Update courses. The Director further explained that much of the language found in the rules pertaining to continuing education was in place prior to renewals moving from one year renewals, to one and two year renewals. A Board Policy may be needed to further clarify the requirements, and ultimately, the rules will need to be amended to offer clarity for one and two year renewals. The Board agreed that a Board Policy should be drafted to clarify the differences found in the Act and the rules. The Director will draft a Board Policy for review at the December meeting.

2. INACTIVE CREDENTIAL STATUS: The Inactive Credential Status was approved by the Board at its July 15, 2010 regular meeting. Director Kohtz informed the Board that it does not have the authority to allow an inactive status for credential holders. 298 NAC Chapter 6, Section 005, says “Any credential holder who fails to submit a properly completed renewal application before July 1 following the expiration date shall not be eligible for renewal and must submit an application for a new credential.” The Board agreed that the Inactive Credential Status should be retired, and that it should be revisited during the next round of rule changes. Board Member Kubert made a motion to retire the Inactive Credential Status, and allow those that currently hold inactive credentials to complete the terms as specified within the guidelines approved by the Board. Board Member Terrell seconded the motion. The motion carried with Barkley, Terrell, Kubert and Moore voting aye.

3. PUBLISHING CEASE AND DESIST LETTERS: Director Kohtz presented to the Board an email response received from AAG Hart regarding the Board’s ability to publish cease and desist letters, or communicate the contents of such letters. AAG Hart advised against publishing the letters or communicating the contents to anyone without a specific public records request. A discussion took place concerning the Board’s responsibility to communicate information to the appraiser community that is important for appraisers to know. Board Member Barkley made a motion to authorize Director Kohtz to send a “Memo from the Board” informing the appraiser community of the importance of checking the AMC Listing on the website, and that there have been a number of organizations acting as AMCs in the state without first obtaining registration from the Board. The motion was seconded by Terrell. Chairman Moore called for a vote, and the motion carried with Terrell, Kubert, Barkley and Moore voting aye.

4. TIMELINESS OF STANDARD 3 REVIEWS: A discussion took place regarding the poor turnaround times the Board has experienced for Standard 3 reviews. This problem has been getting worse as of late, and one review has been out for over four months. Director Kohtz indicated that because of the Board’s fiscal position, work could begin soon on the Compliance Officer contract. The Board agreed that this would be a positive step in resolving this issue, but until the Compliance Officer is in place, the problem will persist. A solution discussed by the Board was putting a time limit in the reviewer contract, limiting the amount of time the review appraiser has to complete the review. If the review is not completed in a timely manner, then the Board will assign the review to another appraiser. The Board agreed that 30 days for residential reviews and 60 days for other reviews is reasonable. The Board asked Director Kohtz to draft a Board Policy for the December meeting.

N. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. CURRENT BOARD POLICIES:** No discussion took place.

O. OTHER BUSINESS

- 1. CONFERENCES/EDUCATION:** No discussion took place.

Break from 1:50 p.m. to 2:00 p.m.

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 2:00 p.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Terrell, Kubert and Moore voting aye.

Board Member Barkley moved to come out of executive session at 2:30 p.m. Board Member Kubert seconded the motion. The motion carried with Kubert, Barkley, Terrell 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:

L607 / Request evidence of more recent work experience and select reports for review contingent on not receiving evidence of additional experience.

CR399R / Approved for credentialing as Certified Residential Appraiser; send advisory letter informing applicant that geographic competency must be obtained prior to engaging in real property appraisal practice in Nebraska.

CG631 / Select reports for review.

CG648R / Approved for credentialing as Certified General Appraiser.

CG650R / Request clarification on letter of competency regarding current and past experience.

CG652R / Approved for credentialing as Certified General Appraiser.

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

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

NE2012087 / Approved

Board Member Kubert seconded the motion. Motion carried with Terrell, 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 / Hold

11-12 / Request appraisal log for the previous twelve months

11-21 / Hold

11-22 / Hold

11-26 / Hold

12-03 / Hold

12-06 / Hold

12-11 / Hold

12-12 / Hold

12-14 / Send appraisal report and workfile out for second review

12-15 / Hold

12-16 / Hold

12-20 / Offer Consent Agreement requiring Respondent to complete 15-Hour National USPAP course, 15-Hour General Report Writing course, submit quarterly log for four subsequent quarters effective at the execution of agreement, and pay \$750.00 for costs associated with investigation within 60 days of execution of agreement. Respondent was also ordered to not cosign any appraisal reports, or engage in any real property appraisal activity in a supervisory capacity, until the terms of the Consent Agreement are fully completed.

12-21 / Offer Consent Agreement requiring Respondent to complete 15-Hour National USPAP course, 15-Hour General Report Writing course, submit quarterly log for four subsequent quarters effective at the execution of agreement, and pay \$750.00 for costs associated with investigation within 60 days of execution of agreement.

12-24 / Hold

12-26 / Dismiss without Prejudice; send advisory letter informing Respondent of Inconsistencies found in appraisal report, and the importance of exercising reasonable diligence in developing an appraisal.

12-27 / Hold

12-28 / Hold

12-29 / Hold

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed inquiry I12-1, and agreed that further inquiry is needed regarding the services provided by the organization. Board Member Kubert will draft a letter of questions.

The Board reviewed the information pertaining to inquiry I12-9. The Board has not received a response to date.

The Board reviewed the information pertaining to inquiry I12-10. The Board has not received a response to date.

The Board reviewed information pertaining to an organization that allegedly engaged in business as an AMC in Nebraska without first obtaining registration issued by the Board. The organization was discovered by a board member during routine business. The Board agreed that the organization needs to be notified of its obligations to adhere to the AMC Registration Act. The organization was assigned identification number I12-11.

The Board reviewed information pertaining to an organization that may be in violation of the Appraisal Management Company Registration Act. The organization's surety bond has been canceled. The Board agreed to open a new investigation, 12-30, for alleged violation of Neb. Rev. Stat. § 76-3203 (4).

The Board discussed current credential holders that were awarded credentials with a restricted scope of work by past boards. The Board has discovered that this issue was resolved in 2006, and this matter is no longer a concern of the Board.

A discussion took place regarding responses received from the Attorney General's office.

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

- 12-30 / Send letter informing Respondent of alleged violations of the Act and requesting a written response.**
- I12-11 / Send letter notifying organization of its obligation to adhere to the AMC Registration Act.**

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

P. NEXT MEETING DATE – DECEMBER 20, 2012, LOWER LEVEL “F” NSOB

Q. ADJOURNMENT

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

At 2:36 p.m. Chairman Moore adjourned the November 15, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for December 20, 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 December 3, 2012, in compliance with Nebraska Statute §84-1413(5).