

Amended at the April 18, 2013 board meeting

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

December 20, 2012 Meeting Minutes

A. OPENING

Chairman Brad Moore called to order the December 20, 2012 meeting of the Nebraska Real Property Appraiser Board at 9:02 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 December 18, 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. Also present was Director, Tyler Kohtz. Board Member Marc Woodle was absent and excused.

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, Terrell 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 9:04 a.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Terrell and Moore voting aye.

Break from 10:22 a.m. to 10:35 a.m.

Board Member Barkley moved to come out of executive session at 12:44 p.m. Board Member Terrell seconded the motion. The motion carried with Barkley, Kubert, Terrell and Moore voting aye.

Break from 11:54 a.m. to 12:43 p.m.

WELCOME GUESTS

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

F. APPROVAL OF THE MINUTES FROM NOVEMBER 2012

Chairman Moore asked for any additions or corrections to the November 15, 2012 minutes. With no further discussion Board Member Kubert moved to adopt the minutes as presented. Board Member Barkley seconded the motion. The motion carried with Barkley, Kubert, Terrell and Moore voting aye.

G. CHAIRMAN'S REPORT

Chairman Moore welcomed board members and staff to the meeting, and thanked the Board and the Director for their work and dedication during the past year. The Chairman brought attention to the work ahead, and mentioned the 2015 credentialing requirement changes. Board Member Barkley thanked Chairman Moore for his service and leadership during his time on the Board.

H. DIRECTOR'S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of December 20, 2012. The Director summarized each chart and reported the number of appraisers as follows: 87 total Licensed, 80 resident and 7 reciprocal; 212 total Certified Residential, 176 resident and 36 reciprocal; 380 total Certified General, 265 resident and 112 reciprocal; and 16 Registered for a total of 695 appraisers. The total number of appraisers is up three from November, but significantly down from the 784 in December of 2011 due to the drop in the number of Registered/Conversion appraisers. The number of appraisers is currently trending upwards slowly.

The Director also addressed the number of temporary permits issued. There were 17 permits issued in November compared to 15 permits issued in October. 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 90 AMCs registered, and 1 new AMC applications have been submitted since the last meeting.

The Director indicated that he has been in contact with Nate Bjorklund, the Real Estate Program Director at the University of Nebraska at Omaha. Mr. Bjorklund is interested in getting the Real Estate program at UNO AQB approved, and intends to begin the process soon. Director Kohtz noted that this is a significant step in the right direction for the future of the appraisal profession, and he will keep the Board updated with Mr. Bjorklund's progress.

Director Kohtz also made note to the Board of future office needs. He discussed the importance of additional personnel in the future to conduct business and meet the Board's objectives, along with the need for adequate space run an efficient office.

I. FINANCIAL REPORT – NOVEMBER 2012

The receipts and expenditures for November were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific November expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$33,395.02 in expenditures and \$89,177.89 in receivables were reported. As of the end of November, expenses amount to 33 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 November 2012 Budget Status reports for receipts and expenditures for audit. Board Member Barkley seconded the motion. The motion carried with Barkley, Kubert, 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 take action on the following continuing education courses as listed:

2. New Continuing Education Requests

A. Appraisal Institute, Chicago, IL:

1. Residential & Commercial Valuation of Solar / 15 hours / C21257 - *Approved*
2. Online/ Discounted Cash Flow Model: Concepts, Issues and Applications / 5 hours / C21259-I - *Approved*
3. Business Practices and Ethics / 6 hours / C21258 - *Approved*

3. Continuing Education Renewal Requests

A. Appraisal Institute, Chicago, IL:

1. What Commercial Clients Would Like Appraisers to Know: How to Meet Their Expectations / 7 hours / C2860-I - *Approved*
2. Professional Guide to the URAR / 7 hours / C2729-I - *Denied*
3. Online/Scope of Work: Expanding Range of Service / 7 hours / C2390-I - *Denied*
4. Online/ Small Hotel/ Motel Valuation / 7 hours / C2746-I - *Approved*

B. McKissock, Warren, PA:

1. Mortgage Fraud: Protect Yourself / 7 hours / C2814-I - *Approved*
2. Even Odder: More Oddball Appraisals / 7 hours / C2816-I - *Approved*

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

Board Member Kubert moved to take action on the following instructors as listed:

4. Instructor Approval Requests

A. Appraisal Institute, Chicago, IL:

1. Jim Amarin - What Commercial Clients Would Like Appraisers to Know: How to Meet Their Expectations / C2860-I - *Approved*
2. Thomas Kirby - Online/Scope of Work: Expanding Range of Service/C2390-I - *Denied*
3. Alan Simmons - Professional Guide to the URAR/ C2729-I - *Denied*
4. David Lennhoff - Online/ Small Hotel/ Motel Valuation/ C2746-I - *Approved*
5. Kenneth Lusht - Online/ Discounted Cash Flow Model: Concepts, Issues and Applications / C21259-I - *Approved*
6. Stephanie Coleman - Business Practices and Ethics/ C21258 - *Approved*
7. Sandy Adomatis - Residential & Commercial Valuation of Solar/ C21257 - *Approved*

B. McKissock, Warren, PA:

1. Daniel Bradley - Mortgage Fraud: Protect Yourself/ C2814-I - *Approved*
Even Odder: More Oddball Appraisals / C2816-I - *Approved*

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

L. UNFINISHED BUSINESS

1. APPOINTMENT OF REAL ESTATE BROKER/CREDENTIALLED APPRAISER

BOARD MEMBER: A discussion took place regarding the Real Estate Broker/Credentialed Appraiser board member position. Because of the low number of applicants received, Board Member Kubert made a motion to send out a second memo from the Board to inform appraisers of the opening. The motion was seconded by Barkley, and carried with Barkley, Kubert, Terrell and Moore voting aye.

2. COUNTY APPRAISER CONTRACTS UPDATE: No update.

3. ENGAGEMENT LETTER FOR APPRAISAL SERVICES: Board Member Moore spoke with John Brennan to get the Appraisal Foundation's views on terms found in engagement letters for appraisal services that do not name a client. It is the Appraisal Foundation's view that the client must be identified at the time of engagement. The Board supports this view.

4. NEW CREDENTIAL UPDATE: No update.

M. NEW BUSINESS

1. APPRAISAL MANAGEMENT COMPANY COMPLIANCE AUDITS: The Board reviewed the results received by Director Kohtz from other states regarding compliance audits and procedures. None of the states that responded have an active audit program, and the majority of states have no plans to audit AMCs. Director Kohtz indicated that regulations may be too new for agencies to establish auditing programs. The Board agreed that this should be considered in the future, but for now the Board should continue to monitor the AMC program.

2. COMPLIANCE OFFICER CONTRACT: The Board reviewed the boiler plate form on which the contract for compliance services would be developed. The Board had a discussion regarding the length of time and effort that must be put into this contract, and agreed that staffing the office is a higher priority. Director Kohtz was asked if a position could be created to handle the compliance and investigative functions of the office. Director Kohtz responded that a position could be created, and that the Board has funding for a second position. The Board asked the Director to develop a job description for a second employee for consideration at the January meeting.

3. COLORADO BOARD OF REAL ESTATE APPRAISERS LETTER: A letter from the Colorado Board of Real Estate Appraisers to Colorado credential holders concerning property inspection was discussed by the Board.

4. **LR 496 / LB 1013:** Director Kohtz brought attention to LR 496, which is an interim study focusing on the issues surrounding LB 1013. LB 1013 was introduced to the legislature last session, and was created to address concerns that some state agencies were making policy changes outside of the Administrative Procedures Act, and enforcing rules prior to the completion of the rule making process. LB 1013 would have had a major impact on the Board's ability to use Board Policies to help clarify statutes and rules if passed. LR 496 does not include any of the language of LB 1013 that would affect the Board's ability to use Board Policies. Director Kohtz indicated that he will continue to monitor this matter.

N. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **NEW BOARD POLICIES:** A discussion took place regarding two new Board Policies. Board Policy 12-13 addresses the timeliness for appraisal reviews, and Board Policy 12-14 addresses clarification of 7-hour USPAP and Report Writing CE requirements. The Board asked that the last sentence be removed from Board Policy 12-13, and that "ex." be changed to "e.g." in Board Policy 12-14. Board Member Terrell moved to take the following actions as listed:

12-13 / Approved as Amended

12-14 / Approved as Amended

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

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

2. **NEW LETTERHEAD:** Director Kohtz presented a new letter head to the Board for review. A discussion took place regarding the letterhead, and the Board asked that the Governor's name be placed on it, and that it is sent to each board member before it is used. Director Kohtz informed the Board that the Governor's name will be added to the letterhead. Board Member Barkley moved to approve the new letterhead as amended. The motion was seconded by Kubert, and carried with Barkley, Kubert, Terrell and Moore.

3. **STANDARD 3 REVIEW FORM UPDATE:** The following review report forms were reviewed and discussed by the Board:

- a. 2012-2013 Standard 3 Review Report for Appraisal Review Reports
- b. 2010-2011 Standard 3 Review Report for Appraisal Review Reports
- c. 2008-2009 Standard 3 Review Report for Appraisal Review Reports
- d. 2012-2013 Standard 3 Review Supplement for Restricted Use Reports

Board Member Barkley asked that "Review" be added before "Report" on each review report form. Director Kohtz was also asked to include "Report" after "Date of Inspection" on page three of each review report form. Board Member Barkley moved to take the following action:

2012-13 Standard 3 Review Report for Appraisal Reviews / Approved as Amended
2010-11 Standard 3 Review Report for Appraisal Reviews / Approved as Amended
2008-09 Standard 3 Review Report for Appraisal Reviews / Approved as Amended
2012-13 Standard 3 Review Supplement for Restricted Use Reports / Approved

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

O. OTHER BUSINESS

- 1. CONFERENCES/EDUCATION:** No discussion
- 2. APPRIASAL FOUNDATION**
 - a. Second Exposure Draft for Supervisor/Trainee Course Objectives: No discussion
 - b. Third Exposure Draft of Proposed Changes for 2014-15 USPAP: No discussion

Break from 2:53 p.m. to 3:00 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 3:00 p.m. Board Member Kubert seconded the motion. The motion carried with Barkley, Kubert, Terrell and Moore voting aye.

Board Member Kubert moved to come out of executive session at 3:41 p.m. Board Member Barkley seconded the motion. The motion carried with Barkley, Kubert, 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 / Select reports for review**
- L608R / Approved for credentialing as Licensed appraiser**
- CR391 / Select reports for review. Cost of reviews to be paid by applicant.**
- CR398 / Approved for credentialing as Certified Residential appraiser**
- CR400 / Approved to sit for exam and select reports for review**
- CR401 / Approved to sit for exam and select reports for review**
- CG631 / Select reports for review**
- CG650R / Send letter requesting a response addressing his geographic competency to engage in real property appraisal activity in Nebraska.**

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

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

- NE2012093 / Approved**
- NE2012094 / Hold; request copy of suit documents**
- NE2012095 / Approved**

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Barkley moved to take the following enforcement actions:

- 11-03 / Request true copy of appraisal report and workfile for board review**
- 11-12 / Select two appraisal reports and workfiles from log for board review**
- 11-21 / Hold**
- 11-22 / Hold**
- 11-26 / Hold**
- 12-03 / Send appraisal review report for review**
- 12-06 / Hold**
- 12-11 / Offer informal**
- 12-12 / Send appraisal review report for review**
- 12-14 / Send appraisal report and workfile for review**
- 12-15 / Offer informal**
- 12-16 / Dismiss without Prejudice; send advisory letter to inform Respondent that true copy of appraisal must be maintained with workfile.**
- 12-20 / Hold**
- 12-21 / Hold**
- 12-24 / Hold**
- 12-27 / Offer informal**
- 12-28 / Hold**
- 12-29 / Send appraisal report and workfile for review**
- 12-30 / Hold**
- 12-31 / Request true copy of appraisal report and workfile, and send for review**
- 12-32 / Request true copy of appraisal report and workfile**
- 12-33 / Hold**
- 12-34 / Send letter of inquiry**
- 12-35 / Dismiss without Prejudice**

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed information received concerning inquiry I12-9.

An appraisal was provided to the Director in which the appraiser responsible for the report allegedly violated the act. The individual that submitted the report provided no response to the Director's inquiries, and did not file a grievance concerning this matter. The Board reviewed this report and chose not to take any action.

The Board discussed the response received concerning inquiry I12-10.

The Board discussed the response received concerning inquiry I12-11.

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 obligation to adhere to the AMC Registration Act. The organization was assigned identification number I12-12.

A Nebraska credential appraiser requested by the board to provide a quarterly work log, but failed to provide the work log, was discussed by the Board.

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

- I12-5 / Hold**
- I12-9 / Send cease and desist letter and notify real estate commission**
- I12-10 / Close**
- I12-11 / Close; send advisory letter**
- I12-12 / Send letter of inquiry**
- #8 / Send letter of inquiry**

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

P. NEXT MEETING DATE – JANUARY 17, 2013, LOWER LEVEL “F” NSOB

Q. ADJOURNMENT

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

At 3:48 p.m. Chairman Moore adjourned the December 20, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for January 17, 2013 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 January 8, 2013, in compliance with Nebraska Statute §84-1413(5).