

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

**March 21, 2013 Meeting Minutes**

**A. OPENING**

Chairman Philip Barkley called to order the March 21, 2013 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 Barkley 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 March 19, 2013 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the Open Meetings Act. 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 Philip Barkley, Tom Kubert, Eldon Terrell and Chris Langemeier were present. Also present were Director, Tyler Kohtz, Compliance and Licensing Specialist, Joya Weir, and Staff Assistant, Gail Parris. Board Member Marc Woodle was absent and excused for the start of the meeting.

**ADOPTION OF THE AGENDA**

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

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

Board Member Kubert 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 9:02 a.m. Board Member Terrell seconded the motion. The motion carried with Terrell, Langemeier, Kubert and Barkley voting aye.

Board Member Woodle arrived at 9:10 a.m.

Break from 10:07 a.m. to 10:16 a.m.

Board Member Kubert moved to come out of executive session at 11:46 a.m. Board Member Woodle seconded the motion. The motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

Break from 11:46 a.m. to 12:02 p.m.

## **WELCOME GUESTS**

Chairman Barkley welcomed the guests to the meeting and asked that they please sign the guest log. Diane Moore and John Haney were the only public members in attendance.

Board Member Kubert made a motion to amend the agenda to hear general public comments before the approval of minutes from February 2013. Board Member Langemeier seconded the motion. The motion carried with Woodle, Langemeier, Barkley, Kubert and Terrell voting aye.

## **J. GENERAL PUBLIC COMMENTS**

Chairman Barkley asked for any public comments. John Haney appeared before the Board to discuss the education requirements for the Certified Residential Real Property Appraiser credential. Mr. Haney indicated that he needs a statistics course to meet the credentialing requirements, but is required to take three prerequisite math courses prior to enrolling in the statistics course. Mr. Haney went on to say that he has inquired about the course at both Southeast Community College and Metro Community College. Both colleges would require him to complete the three prerequisite math courses. Board Member Barkley asked if he has tried any other schools. Mr. Haney responded that he has not. Board Member Woodle mentioned that Bellevue University may be an option. The Board asked that Director Kohtz send Mr. Haney information to help him find accredited schools, and also a copy of the Appraisal Foundation's AQB Guide Note 8 for Mr. Haney to use as a reference.

## **K. APPROVAL OF THE MINUTES FROM FEBRUARY 2013**

Chairman Barkley asked for any additions or corrections to the February 28, 2013 minutes. Board Member Kubert asked that the action for investigation 12-06 under section "D" be changed to "Hold; Consent Agreement Signed by Board Chair." The Director indicated that the requested change will be made. Board Member Kubert moved to adopt the minutes as amended. Board Member Woodle seconded the motion. The motion carried with Terrell, Langemeier, Barkley, Kubert and Woodle voting aye.

## **L. CHAIRMAN'S REPORT**

Chairman Barkley welcomed board members and staff to the meeting. The Chairman began by stating that this will be the last "Chairman's Report." Next month, the Chair's report will be combined with the welcome under "Welcome and Chairman's Remarks." Chairman Barkley brought attention to Board Member Woodle's participation in an informal conference on Wednesday, March 20, 2013. The Chairman thanked Mr. Woodle for his service and willingness to take on a larger role. Chairman Barkley also thanked Board Member Langemeier for the budget research he did last month, and made note of the knowledge that Board Member Langemeier brings to the Board.

## **M. DIRECTOR'S REPORT**

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of March 21, 2013. The Director summarized each chart and reported the number of appraisers as follows: 81 total Licensed, 74 resident and 7 reciprocal; 205 total Certified Residential, 172 resident and 33 reciprocal; 365 total Certified General, 251 resident and 114 reciprocal; and 11 Registered for a total of 662 appraisers. The total number of appraisers is up 15 from February. The Director also added that many renewal applications are still being submitted to the Board's office, and although the number of credentialed appraisers is down 6 from the 668 reported in March 2012, the Director anticipates that this gap will continue to close during April.

The Director also addressed the number of temporary permits issued. There were 19 permits issued in February compared to 22 permits issued in January. Director Kohtz indicated that the number of temporary permits issued should hold steady during 2013. Finally, Director Kohtz reported 93 AMCs registered, and 2 new AMC applications have been submitted since the last meeting.

## **N. FINANCIAL REPORT – MARCH 2013**

The receipts and expenditures for February were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific February expenses. A question was asked about the source of revenue for “Reimbursement Freight” found on the general ledger. The explanation shown was “1 USPAP Shipping, 1 Std 3 Rvw.” Director Kohtz indicated that he will get an answer back to the board members regarding this question. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$16,281.59 in expenditures and \$13,380.55 in receivables were reported. As of the end of February, expenses amount to 48 percent of the budgeted expenditures for the fiscal year; 67 percent of the fiscal year has passed. 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 February 2013 Budget Status reports for receipts and expenditures for audit. Board Member Langemeier seconded the motion. The motion carried with Terrell, Barkley, Woodle, Langemeier and Kubert voting aye.

Director Kohtz provided an updated estimate for the office remodel and workstation installation. The Board reviewed a cost estimate from David Brooks with NSOB maintenance for the electrical work, furniture and equipment rearranging, and wall relocation. \$250.00 was removed from the estimate because a modification to the layout eliminated the requirement for an additional data port. The total for this estimate is now \$577.00. Phone line installation was not included in Mr. Brooks’s estimate, so an additional \$100.00 will be added to the total project cost. Finally, the Board reviewed a proposal from Office Innovations for \$628.00 to unload, unbox, and install both workstations. The total estimated cost for the office remodel and workstation installation is \$1305.00. Board Member Woodle made a motion to approve the \$1305.00 for the estimated cost of the office remodel and workstation installation, along with an additional \$500.00 for any additional costs associated with the office remodel and workstation installation. Board Member Kubert seconded the motion. The motion carried with Terrell, Langemeier, Barkley, Woodle and Kubert voting aye.

Board Member Langemeier met with Senator Mello and the Board’s Legislative Fiscal Officer, Mike Lovelace, to discuss the Board’s 2013-2015 biennial budget request for appropriations to provide USPAP books to resident appraisers. Board Member Langemeier summarized his discussions, and indicated that the Board could write a letter to Senator Mello if it wishes to pursue funding for the USPAP books. After discussing the positives and negatives of both the printed and electronic version of USPAP, the Board agreed that receiving a printed version of USPAP encourages appraisers to review the standards applicable to appraisal practice and make notes in the margins for future reference, and by doing so, limits the number of potential grievances that may be filed with the Board against resident appraisers. All licensed and certified appraisers are also required to take a 7-Hour USPAP Update Course at least once every two years. Along with an interactive version of the course student manual, the required course materials include the most recent edition of USPAP. The development and advisory body for the 7-Hour USPAP Update Course, The Appraisal Foundation, indicated in an April 23, 2012 directive to USPAP Instructors that it is not advisable to use an electronic copy of both USPAP and the interactive student manual because of difficulty navigating back and forth through two documents. Director Kohtz informed the Board that he will draft a letter to Senator Mello requesting appropriations for distribution of the USPAP books to resident appraisers.

## **K. EDUCATION**

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

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

### **2. New Continuing Education Requests**

#### **A. PlanIt Omaha, Omaha, NE:**

1. CREW Midwest / 8 hours / C21303

#### **B. Appraisal Institute, Chicago, IL**

1. Appraising Condos, Co-Ops, & PUDs/ 7 hours/ C21304

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

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

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

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

1. Complex Litigation Case Studies/ 7 hours/ C21256
2. Residential Sales Comparison & Income Approach/ 28 hours/ C2575-I

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

1. REO and Foreclosures/ 5 hours/ C2817-I

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

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

### **4. Instructor Approval Requests**

#### **A. PlanIt Omaha, Omaha, NE:**

1. Jerry Slusky- CREW Midwest /21303

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

1. Shawn Wilson- Complex Litigation Case Studies/ C21256
2. Mark Rattermann- Residential Sales Comparison & Income Approach/ C2575-I
3. Maureen Sweeney- Appraising Condos, Co-Ops, & PUDs/ C21304

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

1. Dan Bradley – REO and Foreclosures /C2817-I

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

## **K. UNFINISHED BUSINESS**

- 1. COUNTY APPRAISER CONTRACTS UPDATE:** Board Member Kubert and Director Kohtz sat in on a round table discussion with assessors at the Southeast district meeting for the Nebraska Association of County Officials on March 14, 2013. Board Member Kubert provided a summary of the meeting, and indicated that the southeast district assessors were receptive to a new credential that could be used in the profession. Much of the discussion centered on resolving the existing issue, or conflicting state statutes that guide them. The assessors would like to see a credential that would not only allow for individuals to provide mass appraisal services to counties on a contractual basis, but could also be used as a standard for county assessment staff as well. Contractors and county staff that hold this credential would also have more accountability for their work, which would be seen as favorable to county boards. Director Kohtz added that cost is a concern for the assessors, but he informed the group that the Board would most likely let the market dictate the costs associated with the required coursework, and the Board will keep costs in mind while this credential is being developed. Director Kohtz also felt that the group was very receptive to a new credential issued by the Board.
- 2. NEW CREDENTIAL UPDATE:** No update.
- 3. STANDARD 3 REVIEW FEES:** A discussion took place regarding Standard 3 review fees paid to appraisers. Director Kohtz presented email communications received from other states concerning fees paid to review appraisers in those states. The Board agreed that the maximum compensation for 2-4 Family, Agricultural, and Commercial should be increased by \$100.00. Also, the Board wants the ability to set the fee higher for complex reviews. Director Kohtz indicated that he will make changes to the current Board Policy to reflect the Board's discussion and present it at the April meeting.

## **L. NEW BUSINESS**

- 1. ASC COMPLAINT HOTLINE:** Director Kohtz provided a number of Appraisal Subcommittee documents, along with two Appraisal Buzz articles, concerning the ASC Complaint Hotline. Director Kohtz outlined some issues with the hotline, and mentioned that the State of Texas tested the hotline and found that the Texas Appraiser Board is being referred to the caller for all issues. The problem is that not all issues reportable through the hotline are under the jurisdiction of the Texas Appraiser Board. Director Kohtz also indicated that he is concerned with the number of frivolous complaints that the Board might receive because of the hotline, and the strain that it would put on the Board's staff. The Director followed by saying that the activity of the hotline would be dependent on how well the ASC markets the hotline. Director Kohtz's final concern was related to the cost of maintaining the hotline. The ASC has outlined estimated costs of the hotline, but no plan as to how the ASC intends to pay for maintenance of the hotline. This is a concern because the ASC is largely funded by appraiser federal registry fees. One board member pointed out that a positive of the hotline is that appraisers will be given another avenue to report AMCs violating the AMC Registration Act. Director Kohtz informed the Board that he will continue to monitor this matter.
- 2. DEFINITION OF INSTRUCTOR:** A recent application for an education activity included many potential instructors, but only one application for instructor approval. Director Kohtz asked that the Board discuss what is considered an instructor for the purpose of an education activity. The Director informed the Board that staff needs a standard to determine if an application is complete or not. The discussion centered on instructors for education providers compared to presenters or moderators at a conference. The Board asked that Director Kohtz prepare a Board Policy defining instructor for review at the April meeting.

## M. BOARD POLICIES AND PROCEDURES

### 1. BOARD POLICIES

- a. **NEW BOARD POLICY 13-02:** A discussion took place regarding the new board policy to clarify the meaning of nonresident. Director Kohtz recently asked AAG Hart a question regarding the paths to credentialing for an individual that is credentialed in another jurisdiction, but recently moved to Nebraska. The Board agreed that no action should be taken on this board policy until a response is received from AAG Hart.
- b. **CURRENT BOARD POLICIES:** No discussion took place.

## O. OTHER BUSINESS

1. **CONFERENCES/EDUCATION:** The Appraisal Foundation recently released its 2013 schedule for Level 1 and Level 2 Investigator Training. The Appraisal Foundation will reimburse attendees for all travel, meals and lodging. The Board is allowed to send two individuals to each session. If more spaces are available after the deadline for registration closes, then more individuals may be able to attend each session.

Level 1 will be held on June 27th through June 29th in Denver, Colorado. Director Kohtz requested that the new Compliance and Licensing Specialist, Joya Weir, obtain one spot. Board Member Kubert indicated that he would like the second spot. If additional spaces become available after registration is closed, then Board Members Woodle and Langemeier indicated interest in attending.

Level 2 will be held on August 15th through August 17th in Chicago, Illinois. Board Members Barkley and Kubert indicated interest in attending the Level 2 Investigator Training. Director Kohtz will let the Appraisal Foundation know of the Board's requested attendees.

### 2. APPRAISAL FOUNDATION

- a. Exposure Draft of Proposed Changes to Advisory Opinion 13: Director Kohtz provided a summary to the Board regarding the changes to AO 13.
- b. Exposure Draft of Proposed Changes to Advisory Opinion 21: Director Kohtz provided a summary to the Board regarding the changes to AO 21.

## C. CONSIDERATION OF APPLICANTS

### 1. CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:

Board Member Langemeier moved to approve credentialing applicant **CR13003** for exam, and select three appraisal reports for Standard 3 review. The motion was seconded by Terrell, and carried with Woodle, Barkley, Terrell and Langemeier. Kubert abstained.

Board Member Kubert moved to take the following actions for credentialing applicants as listed:

**CR13001R / 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.**

**CR13002R / Denied**

**CR13004R / Approved for credentialing as Certified Residential appraiser**

**CR13005R / Approved for credentialing as Certified Residential appraiser**

**CG13005R / Approved for credentialing as Certified General appraiser**

**CG13006R / Approved for credentialing as Certified General appraiser**

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

2. **RENEWAL OF NEBRASKA REAL PROPERTY APPRAISER CREDENTIAL:** Board Member Kubert moved to renew the credential for renewal applicant 3402, and send an advisory letter explaining the importance of properly completing the renewal application and bringing attention to Neb. Rev. Stat. § 84-710 regarding the deposit of fees. The motion was seconded by Langemeier, and carried with Terrell, Woodle, Barkley, Kubert and Langemeier.
3. **REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:** Board Member Kubert moved to take the following actions for AMC applicants as listed:

**NE2013001 / Approved**  
**NE2013002 / Approved**  
**NE2013003 / Approved**  
**NE2013004 / Approved**  
**NE2013005 / Approved**  
**NE2013006 / Approved**

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

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

Vice Chair Kubert moved to take the following enforcement actions:

**11-03 / Request two true copies of appraisal report and workfile**  
**11-12 / Hold**  
**11-21 / Hold**  
**11-22 / Hold**  
**11-26 / Hold**  
**12-03 / Hold**  
**12-06 / Hold**  
**12-11 / Hold**  
**12-12 / Hold**  
**12-14 / Hold**  
**12-15 / Hold**  
**12-20 / Hold**  
**12-21 / Hold; Consent Agreement signed by Board Chair**  
**12-24 / Hold**  
**12-27 / Hold**  
**12-29 / Hold**  
**12-30 / Hold**  
**12-31 / Hold**  
**12-32 / Hold**  
**12-33 / Hold**  
**12-34 / Hold**  
**13-01 / Offer Informal**  
**13-02 / Dismissed with prejudice**  
**13-03 / Offer Informal**  
**13-04 / Offer Informal**  
**13-05 / Hold**  
**13-06 / Request two true copies of appraisal report and workfile**

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

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

An appraisal reported by a Nebraska credentialed appraiser was discussed by the Board. The appraisal appears to be non-compliant with the USPAP Standards. In addition, it appears that the appraiser has failed to exercise reasonable diligence, and may have demonstrated negligence or incompetence in developing the appraisal. The Board agreed to open a new investigation, 13-07, for alleged violation of Neb. Rev. Stat. § 76- 2237 and N.R.S. § 76-2238 (13), (14).

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. In addition, it appears that the appraiser has failed to exercise reasonable diligence, and may have demonstrated negligence or incompetence in developing and communicating the appraisal. The Board agreed to open a new investigation, 13-08, for alleged violation of Neb. Rev. Stat. § 76- 2237 and N.R.S. § 76-2238 (13), (14).

The Board reviewed the quarterly work log of a Nebraska credential appraiser requested by the board to provide a work log. No action was taken by the Board.

The Board discussed personnel matters.

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

- I12-1 / Hold**
- I12-5 / Hold**
- I12-12 / Hold**
- I13-1 / Hold**
- 13-07 / Request two true copies of appraisal report and workfile**
- 13-08 / Request two true copies of appraisal report and workfile**

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

**P. NEXT MEETING DATE – APRIL 18, 2013, LOWER LEVEL “B” NSOB**

**Q. ADJOURNMENT**

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

At 2:20 p.m. Chairman Barkley adjourned the March 21, 2013 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz  
Director

These minutes were available for public inspection on March 28, 2013, in compliance with Nebraska Statute §84-1413(5).