

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

April 18, 2013 Meeting Minutes

A. OPENING

Chairman Philip Barkley called to order the April 18, 2013 meeting of the Nebraska Real Property Appraiser Board at 9:03 a.m., in conference room B 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 April 16, 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, Marc Woodle, Eldon Terrell and Chris Langemeier were present. Also present were Director, Tyler Kohtz, Compliance and Licensing Specialist, Joya Weir, and Staff Assistant, Gail Parris.

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 Barkley, Kubert, Terrell, Woodle and Langemeier 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 9:06 a.m. Board Member Woodle seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Barkley and Kubert voting aye.

Break from 10:23 a.m. to 10:43 a.m.

Board Member Kubert moved to come out of executive session at 11:55 a.m. Board Member Woodle seconded the motion. The motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

Break from 11:55 a.m. to 12:15 p.m.

F. WELCOME AND CHAIR'S REMARKS

Chairman Barkley welcomed the guests to the meeting and asked that they please sign the guest log. Diane Moore was the only public members in attendance. The Chairman brought attention to the amount of information that must be covered at this meeting, and indicated that some items requiring a vote may need to be reordered to ensure that discussion and a vote takes place.

G. BOARD MEETING MINUTES

1. APPROVAL OF MARCH 21, 2013 MEETING MINUTES

Chairman Barkley asked for any additions or corrections to the March 21, 2013 minutes. With no further discussion Board Member Langemeier moved to adopt the minutes as presented. Board Member Kubert seconded the motion. The motion carried with Terrell, Woodle, Kubert, Barkley and Langemeier voting aye.

2. AMENDMENT OF DECEMBER 20, 2012 MEETING MINUTES

Director Kohtz brought attention to errors in the education section of the December 20, 2012 minutes. The Appraisal Institute course "Online/ Small Hotel/Motel Valuation" was shown as denied, but was approved by the Board; The McKissock course "Even Odder: More Oddball Appraisals" was shown as denied, but was approved by the Board; finally, instructor David Lennhoff was shown as denied for the course "Online/ Small Hotel/Motel Valuation" and Daniel Bradley was shown as denied for the course "Even Odder: More Oddball Appraisals," both instructors should be shown as approved. Board Member Woodle moved to amend the December 20, 2012 minutes to show the courses "Online/ Small Hotel/Motel Valuation" and "Even Odder: More Oddball Appraisals" as approved, and instructors David Lennhoff and Daniel Bradley as approved. Board Member Barkley seconded the motion. The motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

Board Member Langemeier made a motion to amend the agenda to consider the Financial Report – April 2013, General Public Comments, and Education prior to the Director's Report. Board Member Kubert seconded the motion. The motion carried with Terrell, Woodle, Barkley, Langemeier and Kubert voting aye.

I. FINANCIAL REPORT – APRIL 2013

The receipts and expenditures for March were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific March expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$22,451.01 in expenditures and \$12,070.35 in receivables were reported. As of the end of March, expenses amount to 55 percent of the budgeted expenditures for the fiscal year; 75 percent of the fiscal year has passed. 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 March 2013 Budget Status reports for receipts and expenditures for audit. Board Member Woodle seconded the motion. The motion carried with Barkley, Langemeier, Terrell, Woodle and Kubert voting aye.

Director Kohtz presented an adjusted budget to the Board for review. Adjustments were made to accommodate personnel changes, the office remodel project, and to once again begin work on the database enhancement project. Board Member Kubert made a motion to approve the amended budget as presented. Board Member Terrell seconded the motion. The motion carried with Langemeier, Barkley, Terrell, Kubert and Woodle voting aye.

(Continued on next page)

(Continued from previous page)

Director Kohtz requested approval of \$5,000.00 for the next phase of the database enhancement project. The Director indicated that discussions with staff brought attention to the importance of incorporating the AMC information into the database. Board Member Langemeier made a motion to approve \$5,000.00 to build the AMC interface in the database. Board Member Woodle seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Barkley and Kubert voting aye.

Director Kohtz presented a packet of information about the State of Nebraska Purchasing Card Program to the Board for review. The Director highlighted the benefits of having an agency purchase card, and described how the card is used. Chairman Barkley asked if this is a line of credit. Director Kohtz explained that it is not; the expenses paid using the card are held in a state account, and the agency must do a journal entry to remove the charges from that account and apply the expenses to the correct expense accounts. Board Member Woodle made a motion to approve application for a state purchase card. Board Member Langemeier seconded the motion. The motion carried with Terrell, Kubert, Langemeier, Barkley and Woodle voting aye.

J. GENERAL PUBLIC COMMENTS

Chairman Barkley asked for any public comments. With no comments, the Chair proceeded to education.

K. EDUCATION

1. AQB/CAP Core Curriculum Requests: None

2. New Continuing Education Requests

After discussion, Board Member Woodle moved to approve the following new continuing education courses as listed:

B. Nebraska REALTORS Association:

- 1. What's it Worth? Pricing Real Estate/ 3 hours/ C21312**
- 2. Anatomy of an Appraisal/3 hours/ C21313**

Seconded by Langemeier. Chairman Barkley called for the vote. Langemeier - aye, Woodle - aye, Terrell – aye, Kubert – nay, Barkley – nay. The motion carried three to two.

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

A. Nebraska Department of Revenue Property Assessment Division:

- 1. Fundamentals of Mass Appraisal / 30 hours / C21305**
- 2. Residential Modeling Concepts/30 hours/ C21306**
- 3. Valuation of Agricultural Land/20.5 hours/C21308**

C. McKissock, LP, Warren, PA:

- 1. FHA for Today's Appraiser/7 hours/C21314-I**
- 2. Relocation Appraisal and the New ERC Form/6 hours/C21315**

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

3. Continuing Education Renewal Requests

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

A. Nebraska REALTORS Association:

1. Residential Construction, Appraisal & Environmental Issues/16 hours/ **C0164**

B. Appraisal Institute, Chicago, IL:

1. Online Reviewing Residential Appraisals and Using Fannie Mae Form 2000/ 7 hours/ **C2835-I**
2. Forecasting Revenue/7 hours/**C2836-I**

C. McKissock, LP, Warren, PA:

1. Environmental Issues for Appraisers/ 5 hours/**C2813-I**

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

4. Instructor Approval Requests

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

A. Nebraska Department of Revenue Property Assessment Division:

1. Barry D. Couch- Residential Modeling Concepts, Fundamentals of Mass Appraisal /**C21306 and C21305**
2. Garth E. Thimgan- Valuation of Agricultural Land/**C21308**
3. John Ulibarri- Fundamentals of Real Property (course already approved in 2012)/**C21217**

B. McKissock, LP, Warren, PA:

1. Tracy Martin (Karen T. Martin)- FHA for Today's Appraiser/ **C21314-I**
2. Alan Simmons- Environmental Issues/ **C2813-I**
3. Dan Bradley- Relocation Appraisal and the New ERC Form/ **C21315-I**

C. Appraisal Institute, Chicago, IL:

1. Sandra K. Adomatis – Forecasting Revenue /**C2836-I**
2. William “Ted” Anglyn- Forecasting Revenue/**C2836-I**
3. Mark Rattermann- Forecasting Revenue, Online Reviewing Residential Appraisals and Using Fannie Mae Form 2000/**C2836-I and C2835-I**

D. Nebraska REALTORS Association:

1. Barry Stranz- Residential Construction, Appraisal & Environmental Issues/**C0164**
2. Melanie McLane-Anatomy of an Appraisal, What's it Worth? Pricing Real Estate/ **C21313 and C21312**

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

Board Member Langemeier made a motion to amend the agenda to consider Board Policies and Procedures prior to the Director's Report. Board Member Terrell seconded the motion. The motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

O. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. BOARD POLICY 12-07 AMENDMENT:** Director Kohtz amended Board Policy 12-07 to reflect the changes requested by the Board after discussion regarding reviewer fees during the February 28, 2013 meeting.

- b. NEW BOARD POLICIES 13-02 AND 13-03:** Discussion took place regarding new Board Policies 13-02 and 13-03. For Board Policy 13-03, Director Kohtz was asked to remove "continuing" from the definition, so that the policy reflects all education. Director Kohtz was also asked to rephrase the first sentence describing content to include "as presented to the Board for course approval." Director Kohtz will work on the language and present the updated version to the Board at the May meeting.

Board Member Kubert moved to take the following action on board policies:

12-07 / Approved
13-02 / Approved
13-03 / Hold

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

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

2. APPLICANT BOARD REVIEW FORMS

- a. RESIDENTIAL APPLICANT:** Discussion took place regarding the presented residential applicant board review form. Concerns were raised by the Board regarding the number of pages. Board Member Langemeier asked if the form could be condensed. Board Member Kubert also asked about the relevancy of the section for geographic competency on the form. Director Kohtz indicated that according to the ASC's policies, a resident and reciprocal applicant cannot be treated differently, so if geographic competency is questioned for reciprocal applicants, it must be for residential applicants as well. Board Member Kubert questioned the need for the Board to address geographic competency any longer. After discussion, the Board agreed that the geographic competency section should be removed from the form. Director Kohtz indicated that the form will also be condensed.

- b. RECIPROCAL APPLICANT:** Discussion took place regarding the presented reciprocal applicant board review form. The Board requested that the same changes be made to this form as to the residential applicant board review form. Based on the previous discussion regarding geographic competency, Director Kohtz indicated that geographic competency will be removed from this form, and from the reciprocal application as well. The Board also asked that the applicant's town and state be added to the form.

(Continued on next page)

(Continued from previous page)

Board Member Langemeier moved to take the following action on the presented board review forms:

**Residential Applicant / Approved as Amended
Reciprocal Applicant / Approved as Amended**

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

H. DIRECTOR'S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of April 18, 2013. The Director summarized each chart and reported the number of appraisers as follows: 83 total Licensed, 76 resident and 7 reciprocal; 209 total Certified Residential, 173 resident and 36 reciprocal; 373 total Certified General, 255 resident and 118 reciprocal; and 11 Registered for a total of 676 appraisers. The total number of appraisers is up 14 from March. The Director also made note that the number of credentialed appraisers is up 7 from the 669 reported in April 2012.

The Director also addressed the number of temporary permits issued. There were 6 permits issued in March compared to 19 permits issued in February. Director Kohtz indicated that the drop in temporary permits may be the result of a few out of state appraisers obtaining reciprocal credentials. The number of temporary permits issued will be monitored. Finally, Director Kohtz reported 98 AMCs registered, and 1 new AMC application was submitted since the last meeting.

Director Kohtz also indicated that he recently received a phone call from Mike Lovelace from the Legislative Fiscal Office. Mr. Lovelace indicated that the Appropriations Committee has finalized the agency's appropriations for FY 2013-15. As requested by the Director at the agency's budget hearing, the additional funds for relocation were approved. The Committee also agreed to remove the agency's \$20,000.00 earmark on legal services. The Director's request for an additional \$10,000.00 for online applications was not approved. The Appropriations Committee also considered the Board's written request for \$16,000.00 in funding for the USPAP books, but did not approve the additional appropriations. Director Kohtz expressed his satisfaction with the agency's appropriations for FY 2013-15.

L. UNFINISHED BUSINESS

1. COUNTY APPRAISER CONTRACTS UPDATE: No Update.

2. NEW CREDENTIAL UPDATE: No update.

M. NEW BUSINESS

1. ASC'S POSITION ON RECIPROCITY: Director Kohtz presented an email sent to Neal Fenochietti with the Appraisal Subcommittee questioning the ASC's position concerning reciprocity. The questions were based on Board conversations at meetings during the past few months. Director Kohtz has received a response back from Mr. Fenochietti, but has not had a chance to review it in detail yet. A report will be provided at the May meeting.

2. **CEASE AND DESIST AUTHORITY:** The Board asked Director Kohtz to check with the Real Estate Commission regarding its use of cease and desist letters or orders. The Director presented the Real Estate Commission's statutory language concerning the use of cease and desist orders, and indicated that the Board should consider incorporating similar language into the Real Property Appraiser Act and the AMC Registration Act. The language used by the Real Estate Commission is very direct, and gives the Real Estate Commission jurisdiction over any person that violates the Real Estate Act. The Board agreed that language typical to the Real Estate Commissions should be included in the 2015 law rewrite.
 3. **FBI FINGERPRINT AUDIT:** Director Kohtz informed the Board of the FBI Fingerprint Audit that took place on April 11, 2013. Director Kohtz indicated that the agency is doing a very good job handling the fingerprints and results. The only concern the FBI had regarding the agency's operations were that the fingerprint results were not locked up after business hours. This is a concern because the cleaning crew has unsupervised access to the print results. Staff is working to organize the AMC files, and will incorporate a procedure for ensuring the print results are locked up during this process. The Director is waiting to receive the full audit report, and will present it to the Board at the May meeting.
 4. **KENTUCKY AMC RECOVERY FUND:** Director Kohtz presented a couple email chains regarding legislation in Kentucky to cease the use of surety bonds for appraisal payment recovery, and begin a recovery fund managed by the Kentucky Real Estate Appraiser Board. A discussion took place regarding the Kentucky legislation. Director Kohtz brought attention to potential issues with a recovery fund. Chairman Barkley also indicated that Nebraska law requires an AMC to name the Nebraska Real Property Appraiser Board as the "Obligee" on the bond, which should prevent problems that other states are having when a claim against a surety bond is filed.
 5. **2013 STRATEGIC PLANNING:** Director Kohtz requested that the Board select a date for the 2013 strategic planning session. The Board agreed to hold its strategic planning meeting on June 10, 2013 at 9:00 a.m.
- N. **LEGISLATIVE REPORT:** Director Kohtz reported on legislative activity that may have an impact on the board. After the Director's report, the Board agreed that only LB355 has an impact, but found the report to be beneficial and informative. The Board also agreed monitoring of these bills should continue to the end of the current session. Director Kohtz indicated that he intends to provide reports throughout the entire legislative session in the future, which would give the Board the opportunity to state its position on a bill if needed.
- N. **OTHER BUSINESS**
1. **CONFERENCES/EDUCATION:** No discussion.
 2. **APPRAISAL FOUNDATION**
 - a. **2013 Summary of Action Related to Proposed USPAP Changes:** Director Kohtz provided a summary of proposed USPAP Changes.
 - b. **1st Exposure Draft – Identifying Comparable Properties:** No discussion.
 - c. **1st Exposure Draft – Identifying Comparable Properties for Automated Valuation and Mass Appraisal Models:** No discussion
 - d. **2nd Exposure Draft – Proposed Revision to Qualification Criteria:** Director Kohtz highlighted the changes shown in this exposure draft.

Board Member Kubert 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 2:01 p.m. Board Member Langemeier seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

Break from 2:01 p.m. to 2:21 p.m.

Board Member Kubert moved to come out of executive session at 3:15 p.m. Board Member Terrell seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

C. CONSIDERATION OF APPLICANTS

1. CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:

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

CR13006 / Approved to sit for exam and select three reports for review
CG13007R / Approved for credentialing as Certified General appraiser
CG13008R / Approved for credentialing as Certified General appraiser
CR400 / Hold
CR391 / Approved for credentialing as Certified Residential appraiser
CG647 / Resend reports for review
CR401 / Hold
L607 / Offer informal meeting
L605 / Offer informal meeting
L606 / Denied
CG631 / Hold

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

Board Member Woodle moved to take the following action for the credentialing applicant as listed:

CR13003 / Hold

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

11-03 / Hold
11-12 / Send two reports for review
11-21 / Offer informal meeting
11-22 / Offer informal meeting
11-26 / Offer informal meeting
12-03 / Dismissed with prejudice
12-06 / Hold

- 12-11 / Offer Consent Agreement requiring Respondent to complete a 7-Hour Report Writing Update course, not less than 14 hours of commercial income approach education as approved by the agency, and pay \$500.00 for costs associated with investigation within 60 days of execution of agreement. Respondent was also ordered to not act in a supervisory capacity, train, or cosign any appraisal reports for a period of one year.**
- 12-12 / Dismissed with prejudice**
- 12-14 / Offer informal meeting**
- 12-15 / Dismissed without prejudice; send advisory letter informing Respondent of importance of including adequate support for market adjustments in workfile.**
- 12-20 / Hold; Consent Agreement signed by Board Chair**
- 12-21 / Hold**
- 12-24 / Hold**
- 12-27 / Hold**
- 12-29 / Offer informal meeting**
- 12-30 / Hold**
- 12-31 / Hold**
- 12-32 / Send appraisal report and workfile for Standard 3 review**
- 12-33 / Hold**
- 12-34 / Dismissed without prejudice**
- 13-01 / Hold**
- 13-03 / Hold**
- 13-04 / Hold**
- 13-05 / Send notice to registered agent**
- 13-06 / Offer informal meeting and request worklog, along with evidence of continuing education, for previous two years**
- 13-07 / Hold**
- 13-08 / Hold**
- 13-09 / Offer informal meeting and request worklog, along with evidence of continuing education, for previous two years**
- 13-10 / Request true copy of appraisal report and workfile; send for Standard 3 review**

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

During the Board’s review of contracts that Nebraska counties have with individuals for appraisal services, four individuals were identified as providing appraisal services without first obtaining a credential by the Board. The Board inquired about the services provided by each individual. The Board discussed the responses received from the four individuals.

During the Board’s review of contracts that Nebraska counties have with individuals for appraisal services, an organization was identified as providing appraisal services without any employees holding a credential issued by the Board. The Board inquired about the services provided by this organization and its employees. The Board discussed the response received from the organization.

The Board discussed inquiry I12-12.

The Board discussed inquiry I13-1.

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**
- Item 3 / Send cease and desist letter**
- Item 4 / Send cease and desist letter**
- Item 5 / Send cease and desist letter**
- Item 6 / Send cease and desist letter**
- Item 7 / Send cease and desist letter**
- I12-12 / Send cease and desist letter to organization, and send inquiry letter to associated organization**
- I13-1 / Close; send cease and desist letter**

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

Q. NEXT MEETING DATE – MAY 16, 2013, LOWER LEVEL “A” NSOB

R. ADJOURNMENT

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

At 3:15 p.m. Chairman Barkley adjourned the April 18, 2013 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on May 3, 2013, in compliance with Nebraska Statute §84-1413(5).