



# THE NEBRASKA APPRAISER

News from the Nebraska Real Property Appraiser Board

Fall 2016

## Director's Comments



Director Tyler Kohtz

*Tyler Kohtz has been the Director for the Nebraska Real Property Appraiser Board since March of 2012. He is responsible for the development, implementation, and management of all programs for the agency, including the administration and enforcement of the Real Property Appraiser Act and the Appraisal Management Company Registration Act.*

## Renewal

New Year's Day is on its way. For some, this day signifies that it is time to turn the page to a new chapter. For others, this day is meant for reflection on the past year. Looking into the future, the Board is preparing for introduction of legislation pertaining to the AMC Registration Act, preparing for the next ASC audit, and tackling some long range projects. Looking back at the past year, the Board experienced change as Ben Hynek and David Bloxham joined the Board, and Allison Nespore joined the Board's staff. Reflecting on accomplishments of the past year includes finalizing the 2017-2019 Biennial Budget Request for submission, finalizing updates for Title 298, and drafting bill language for the AMC Registration Act changes. Finally, the Board is in the midst of concluding another successful renewal season; thank you to all of you real property appraisers for doing your part.

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### Upcoming NRPAB Meetings:

- ◆ January 19, 2017 @ NRPAB Office (Conference Room)
- ◆ February 16, 2017 @ NRPAB Office (Conference Room)
- ◆ March 16, 2017 @ NRPAB Office (Conference Room)

\* The start time for each meeting can be found on the agenda posted to the Board's website at least 48 hours prior to the start of the meeting.

# Is an “as is” Value Required While Utilizing a Hypothetical Condition?

By Tyler N. Kohtz, Director

During the Board’s review of a report at its August 25, 2016 meeting, the question arose “Is an ‘as is’ value required while utilizing a hypothetical condition?” The Board turned to the 2016-2017 Edition of the Uniform Standards of Professional Appraisal Practice for an answer, but USPAP provided little direction. The Board agreed that it would be best to research this matter and discuss the question again at its September 14, 2016 meeting. After consulting with a local education provider, the Board concluded that the answer to this question is both yes and no.

Let’s start with USPAP itself. The term “as is” (used in the context of the Board’s question) appears in only four areas in the USPAP manual; Advisory Opinion 9, Question 139, Question 178, and Question 216. Advisory Opinion 9 pertains to the use of a hypothetical condition or an extraordinary assumption that the subject is free of contamination concerning the appraisal of a contaminated property. This advisory opinion acknowledges that some assignments may require an appraisal of the “as is” condition of the property, but does not specify when or why. Questions 139, 178, and 216 only mention “as is” as part of the question. The subject of, and answer for, each question provides no guidance on the requirement of an “as is” value while using a hypothetical condition.

Next, let’s look at the big picture laid out in USPAP. The Ethics Rule says in part, “An appraiser must not communicate assignment results with the intent to mislead or defraud.” The Competency Rule also states, “An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment. In all cases, the appraiser must perform competently

Continuing on, the Scope of Work Rule indicates that, “an appraiser must: 1) identify the problem to be solved; 2) determine and perform the scope of work necessary to develop credible assignment results; and 3) disclose the scope of work in the report.” Standards Rule 1-1 (a) requires that an appraiser be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal, and Standards Rule 1-1 (e) requires that an appraiser identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal. Finally, Standards Rule 1-2 (g) requires that an appraiser identify any hypothetical conditions necessary in the assignment.

So far, what has been found in USPAP (within the context of the Board’s question) provides guidance on the development of an appraisal based on assignment conditions, and standards for establishing and solving a problem in a credible manner. If a hypothetical condition is required for credible results, the previously mentioned rules may or may not lead to the requirement of an “as is” value; this determination, if no other qualifiers exist, is left up to the appraiser’s judgement.

If a forthright answer to this question is not found in USPAP, then where is it found? We will return to USPAP in a bit, but let’s now turn attention to the Interagency Appraisal and Evaluation Guidelines issued by the Department of the Treasury, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and National Credit Union Administration. Section VIII titled “Minimum Appraisal Standards” states, “The estimate of market value should consider the real property’s actual physical condition, use, and zoning as of the effective date of the appraiser’s opinion of value. For a transaction financing construction or renovation of a building, an institution would generally request an appraiser to provide the property’s current market value in its “as is” condition, and, as applicable, its prospective market value upon completion and/or prospective market value upon stabilization.”

## Is an “as is” Value Required While Utilizing a Hypothetical Condition? (Continued)

Within the same section, the Interagency Appraisal and Evaluation Guidelines also state, “When an appraisal includes prospective market value opinions, there should be a point of reference to the market conditions and time frame on which the appraiser based the analysis. An institution should understand the real property “as is” market value and should consider the prospective market value that corresponds to the credit decision and the phase of the project being funded, if applicable.”

Appendix A in the Interagency Appraisal and Evaluation Guidelines provides exemptions to the above mentioned language found in Section VIII, which includes the following:

- Transactions with a value equal to or less than \$250,000;
- A lien on real estate taken by an institution if the lien is taken by the lender in an abundance of caution;
- Loans not secured by real estate;
- Liens for purposes other than the real estate’s value;
- Real estate secured business loans with a transaction value of \$1 million or less with certain qualifications;
- Operating leases that are not the economic equivalent of the purchase or sale of the leased property;
- Renewals, refinancings, and other subsequent transactions under certain circumstances;
- Transactions involving the purchase, sale, investment in, exchange of, or extension of credit secured by a loan or interests in a loan or real property;

- Transactions that are wholly or partially insured or guaranteed by a U.S. Government Agency or U.S. Government-Sponsored Agency;
- Transactions that qualify for sale to or meet the appraisal standards of, a U.S. Government Agency or U.S. Government-Sponsored Agency;
- Transactions by regulated institutions acting as a fiduciary;
- Appraisals not necessary to protect Federal financial and public policy interests or the safety and soundness of financial institutions as determined by the Federal Agencies responsible for issuance of the Appraisal and Evaluation Guidelines.

Going back to USPAP, the comments under “Problem Identification” in the Scope of Work Rule, include “Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.”

Is an “as is” value required while utilizing a hypothetical condition? For many situations, this answer is left to the appraiser’s judgement related to a specific assignment, but for certain appraisals involving real estate transactions, the answer is yes, as determined by financial institutions adhering to the Interagency Appraisal and Evaluation Guidelines.

Please contact the Board’s office at 402-471-9015, or by email at: [nrpab.questions@nebraska.gov](mailto:nrpab.questions@nebraska.gov), for any questions concerning the requirement of an “as is” value while utilizing a hypothetical condition.

## A Brief NRPAB Appraiser CHRC History

During the peak of credential renewal processing, the Board's staff receives many questions pertaining to the Criminal History Record Check program. During its September 14, 2016 meeting, while discussing one of these inquiries, the Board requested that a brief history of the CHRC program be provided in the next newsletter.

The CHRC program was established when the Real Property Appraiser Qualifications Criteria ("2015 Criteria") as promulgated by The Appraisal Foundation and enforced by The Appraisal Subcommittee, went through a dramatic change that became effective on January 1, 2015. One of the changes included in the 2015 Criteria was the introduction of background check requirements for all applicants for a real property appraiser credential. The 2015 Criteria also strongly recommended that background checks be completed for all applicants for renewal of a real property appraiser credential.

LB717, approved by the legislature on April 3, 2014 and signed by Governor Heineman on April 9, 2014 included language for the Board's administration of the CHRC program. During the drafting of LB717, the Board put much consideration into many issues related to criminal history record checks. Specifically, when, how often, and where. Although the Board adopted the CHRC for all new applicants for credentialing as required in the 2015 Criteria, the Board felt that requiring a CHRC for all Nebraska credential holders renewing a credential would be a costly and unnecessary burden, and instead, chose to establish a random fingerprint audit program, in which Nebraska credential holders are chosen at random for a CHRC. This decision allows the Board to keep the costs low for all those that must complete a CHRC, and limits the number of times that a credential holder would be required to complete the CHRC. During establishment of this program, the Board acknowledged that an appraiser may be selected at random for a CHRC in consecutive years, but agreed that if the audit was to truly be random, then this would be a possibility.

Many questions received by the Board's staff are related to how the CHRC is carried out and what is included in the results. Due to the law structure in Nebraska, CHRCs can only be conducted by the Nebraska State Patrol (not third party background check entities). Ink or electronic fingerprints can be submitted to the Nebraska State Patrol, and most law enforcement agencies will take fingerprints for a CHRC. The CHRC "Rap Sheet" provided by the Nebraska State Patrol includes the results for a check of Nebraska criminal records, along with the results for a national criminal record check conducted by the Federal Bureau of Investigation. Please contact the Board's office at 402-471-9015, or by email at: [nrpab.questions@nebraska.gov](mailto:nrpab.questions@nebraska.gov), for any questions concerning the Board's Criminal History Record Check program.

## Free Voluntary Guidance for Appraisers

Looking for guidance on recognized valuation methods and techniques? The Appraisal Foundation's Appraisal Practices Board (APB) has issued *Valuation Advisories*, which are available for free on the Foundation's web site. The following *Valuation Advisories* are currently available:

APB VFR Valuation Advisory #1:  
[\*Identification of Contributory Assets and Calculation of Economic Rents\*](#)

APB VFR Valuation Advisory #1 (Toolkit):  
[\*Identification of Contributory Assets and Calculation of Economic Rents\*](#)

APB VFR Valuation Advisory #2:  
[\*The Valuation of Customer-Related Assets\*](#)

APB Valuation Advisory #2:  
[\*Adjusting Comparable Sales for Seller Concessions\*](#)

APB Valuation Advisory #3:  
[\*Residential Appraising in a Declining Market\*](#)

APB Valuation Advisory #4:  
[\*Identifying Comparable Properties - Revised\*](#)

APB Valuation Advisory #5:  
[\*Identifying Comparable Properties in Automated Valuation Models for Mass Appraisal\*](#)

APB Valuation Advisory #6:  
[\*Valuation of Green and High Performance Property: Background and Core Competency\*](#)

APB Valuation Advisory #7:  
[\*Valuation of Green and High Performance Property: One- to Four-Unit Residential\*](#)

APB Valuation Advisory #8:  
[\*Collection and Verification of Residential Data in the Sales Comparison Approach\*](#)

To learn more about the APB's *Valuation Advisories* and what advisories are under development, click [here](#).

The APB utilizes teams of Subject Matter Experts (SMEs) to help develop this guidance. To learn more about becoming an SME to help develop this guidance, click [here](#).

# NRPAB Quick Hits

- ◆ A hearing took place on December 15, 2016 for the proposed changes to Title 298, the Board's rules and regulations. The previous proposed rules changes were returned to the Board by Governor Ricketts on July 18, 2016 unsigned. The current draft addresses the concerns expressed by Governor Ricketts related to the General Fund tax receipts.
- ◆ The Board has drafted an update to the Appraisal Management Company Registration Act for introduction during the 2017 legislative session. Requests for public comment ran through December 13, 2016. This bill will address needed changes pertaining to the AMC Final Rule that was issued on June 9, 2015 by multiple federal agencies, implementing minimum requirements for State registration and supervision of appraisal management companies.
- ◆ The Nebraska Real Property Appraiser Board would like to congratulate the University of Nebraska at Omaha for approval of its Bachelor's Degree in Business Administration with a concentration in Real Estate and Land Economics by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation as meeting up to 90% of the real property appraiser qualifying education requirements. Those that meet all the AQB approved qualifying education through the Real Estate Program, and earn a Bachelor's Degree in Business Administration with a concentration in Real Estate and Land Economics, would only need to complete the Fifteen-Hour National USPAP Course for the licensed residential and certified residential real property appraiser credentials, and the Fifteen-Hour National USPAP Course with ten hours of general appraiser income approach for the certified general real property appraiser credential, to finish the qualifying education required to become a real property appraiser.

## NRPAB Staff

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[Visit NRPAB on Facebook](#)

### *Have questions? We have answers!*

Questions related to appraisal management company registration and renewal: [nrpab.amc@nebraska.gov](mailto:nrpab.amc@nebraska.gov)

Questions related to real property appraiser credentialing: [nrpab.credentialing@nebraska.gov](mailto:nrpab.credentialing@nebraska.gov)

Questions related to real property appraiser credential renewal: [nrpab.renewals@nebraska.gov](mailto:nrpab.renewals@nebraska.gov)

Questions related to real property appraiser education (QE & CE): [nrpab.education@nebraska.gov](mailto:nrpab.education@nebraska.gov)

Questions related to investigations, or how to file a grievance: [nrpab.compliance@nebraska.gov](mailto:nrpab.compliance@nebraska.gov)

General Questions: [nrpab.questions@nebraska.gov](mailto:nrpab.questions@nebraska.gov)

# In the Spotlight: NRPAB Intern Esther Sloh

Esther Sloh has joined the Board as an intern to assist with processing real property appraiser renewal applications. Esther, originally from Tabou, Ivory Coast (Côte d'Ivoire), was born during the early 90s to Liberian parents. Her parents escaped to Cote d'Ivoire during the second civil war in their homeland of Liberia. Esther and her family moved to the United States in 2004 through the International Rescue Committee's (RIC) Refugee Resettlement program. Due to illness, Esther's mother did not make the trip. The resettlement program, which began in the early 2000s, was for people who were affected by the civil wars and were displaced in other parts of the West African countries. Esther and her family went through an interview and medical examinations before approval in May of 2004.



Esther Sloh, NRPAB Intern

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*"So far, it has been a great learning experience. I have learned and continue to learn about the appraisal application renewal process from Allison, Grant and Tyler. They are always there to help me when I need any help with the process."*  
- Esther Sloh

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Esther and her family originally settled in Abilene, Texas, and moved to Lincoln, Nebraska for better a employment opportunity. Esther graduated from Lincoln High in June of 2010, and soon after, decided to pursue a degree in English. Upon graduation from Lincoln High School, Esther received a forty-five credit hour scholarship from the Learn to Dream Foundation to attend Southeast Community College. In September of 2013, Esther completed her Associate of Arts Degree and transferred to the University of Nebraska - Lincoln as an English major. Esther graduated from UNL in May of this year with a Bachelor's Degree in English with an Ethic Studies Concentration and a Minor in French.

When Esther is not processing renewal applications for the Board, she likes to read and watch supernatural, Sci-Fi, and mystery TV shows and movies. Esther says, "I am currently addicted to the Canadian Sci-Fi TV show, Orphan Black." Esther also enjoys watching western and African movies, listening to music, and cooking. Esther will complete her internship with the Board in mid-January.

## Coming and Going:

The Nebraska Real Property Appraiser Board would like to offer congratulations to the following individuals who received a real property appraiser credentials, and the organizations newly registered as appraisal management companies, between July and September of 2016.

### **Trainee Real Property Appraisers**

Meghan Turner, Lincoln, NE – T2016011  
Sibyl Uerling, North Platte, NE – T2016012  
Grant Whitehead, Omaha, NE – T2016013

### **Licensed Residential Real Property Appraisers**

Kevin Day, Bloomington, MN – L2016003R  
Anthony Akinseye-Akintujoye,  
Bloomington, MN – L2016004R

### **Certified Residential Real Property Appraisers**

James Perry, Bloomington, MN - CR2016006R  
Myles Hoffman, Wheaton, IL - CR2016007R

### **Certified General Real Property Appraisers**

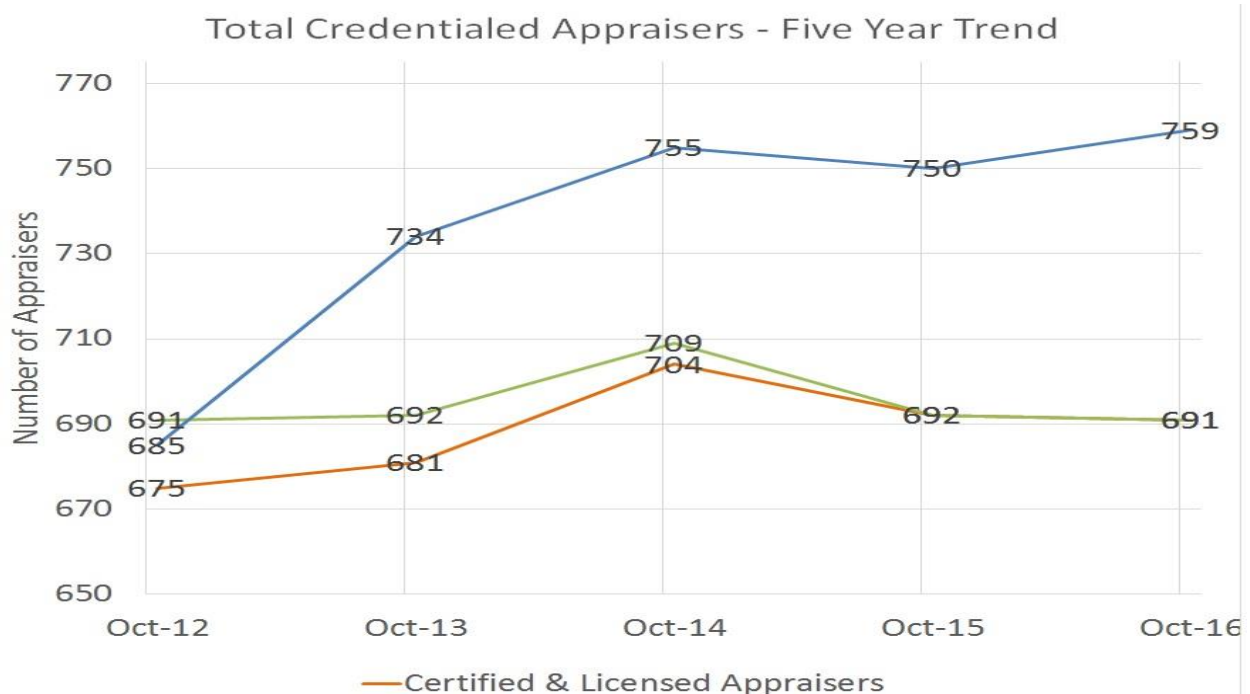
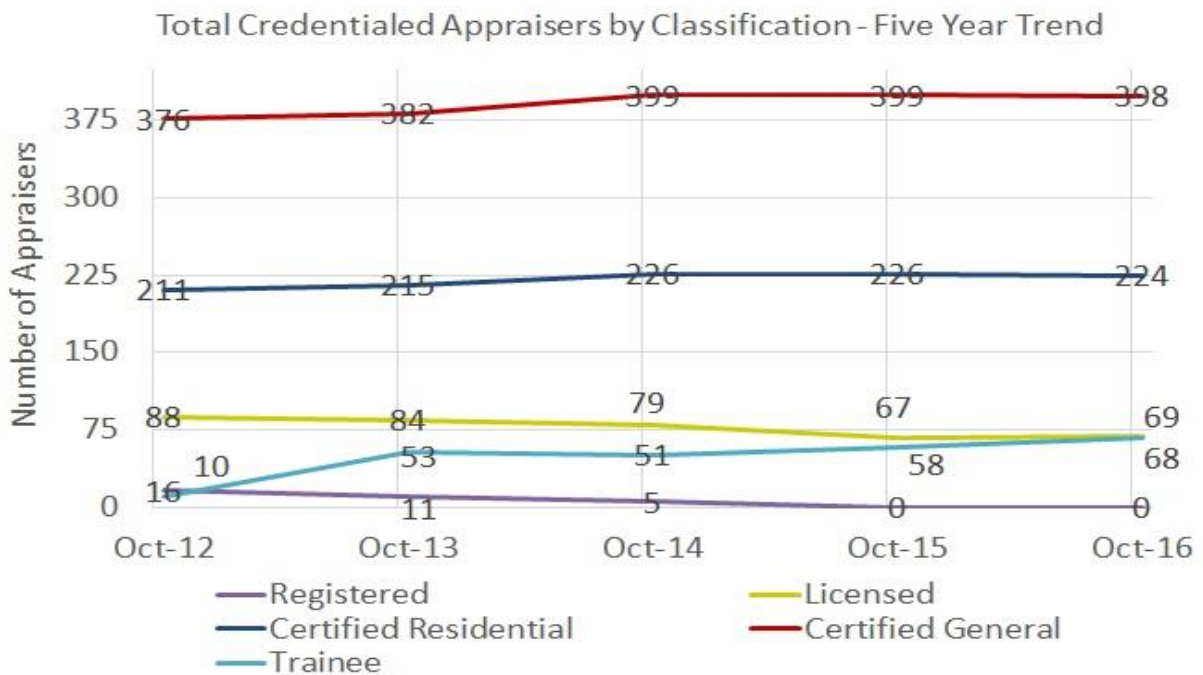
David Walden, Chicago, IL – CG2016013R  
April Sewell, West Des Moines, IA – CG2016014R  
Jaret Sievers, Sioux Falls, SD – CG2016015R  
Richard Boyles, Newton, KS – CG2016016R

### **Appraisal Management Companies**

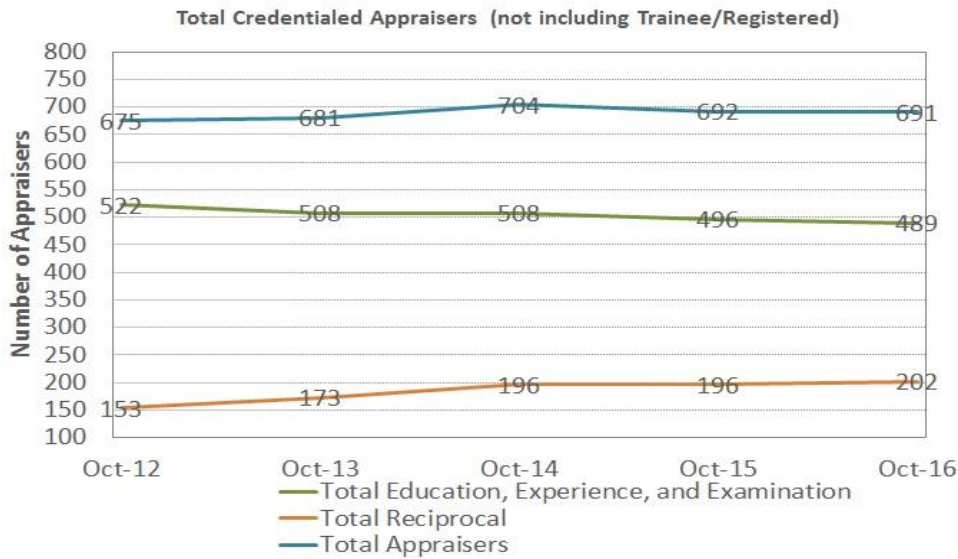
Exos Valuations, LLC – NE2016008  
Schaeffer Appraisal Management Company, Inc –  
NE2016010  
Nationwide Property & Appraisal Services, LLC –  
NE2016011

# Real Property Appraiser and AMC Numbers and Trends as of October 1, 2016

The charts below outline the five year trend for the number of Nebraska credentialed real property appraisers and Nebraska registered appraisal management companies up to October 1, 2016. There are currently 691 licensed residential, certified residential, and certified general real property appraisers in Nebraska, and 68 credentialed trainee real property appraisers. In addition, there are currently 108 appraisal management companies registered in Nebraska.



## Real Property Appraiser and AMC Numbers and Trends as of July 1, 2016 (Continued)



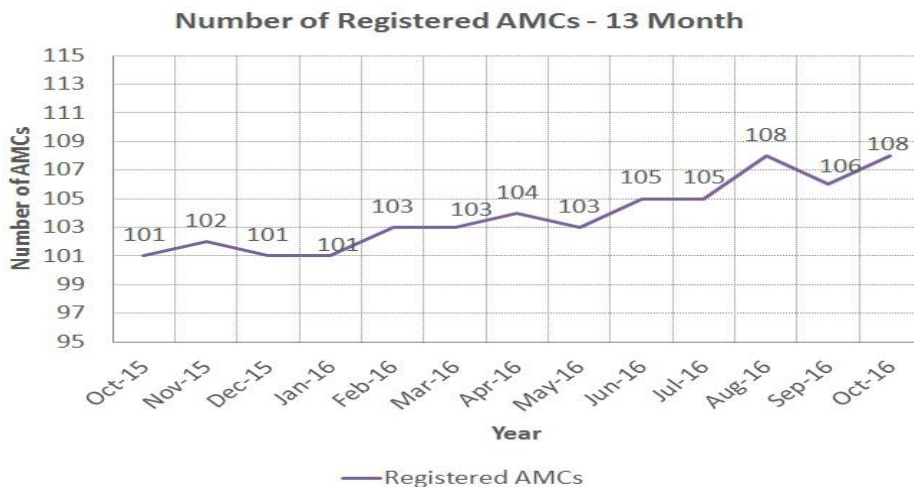
# Nebraska Real Property Appraiser Board Members

*Chairman of the Board*  
**Marc V. Woodle**, Omaha  
 Certified General Appraiser  
 2<sup>nd</sup> District Representative  
 Term Expires: January 1, 2017

*Vice Chairman of the Board*  
**Christopher R. Langemeier**, Schuyler  
 Certified General Appraiser  
 Licensed Real Estate Broker Rep  
 Term Expires: January 1, 2018

*Board Member*  
**Benjamin J. Hynek**, Lincoln  
 Certified Residential Appraiser  
 1<sup>st</sup> District Representative  
 Term Expires: January 1, 2021

*Board Member*  
**David P. Bloxham**, Nebraska City  
 Certified Residential Appraiser  
 Financial Institutions Rep  
 Term Expires: January 1, 2019



# THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications*



**New!**  
**The Appraisal Foundation**  
**Q&A Forum**



Do you have a question for the Appraiser Qualifications Board or Appraisal Standards Board that is not addressed in the existing Q&As?

The Appraisal Foundation is pleased to announce a new Q&A Forum that is now available. You can post your questions on appraisal standards or appraiser qualifications and receive a timely answer from Foundation staff.

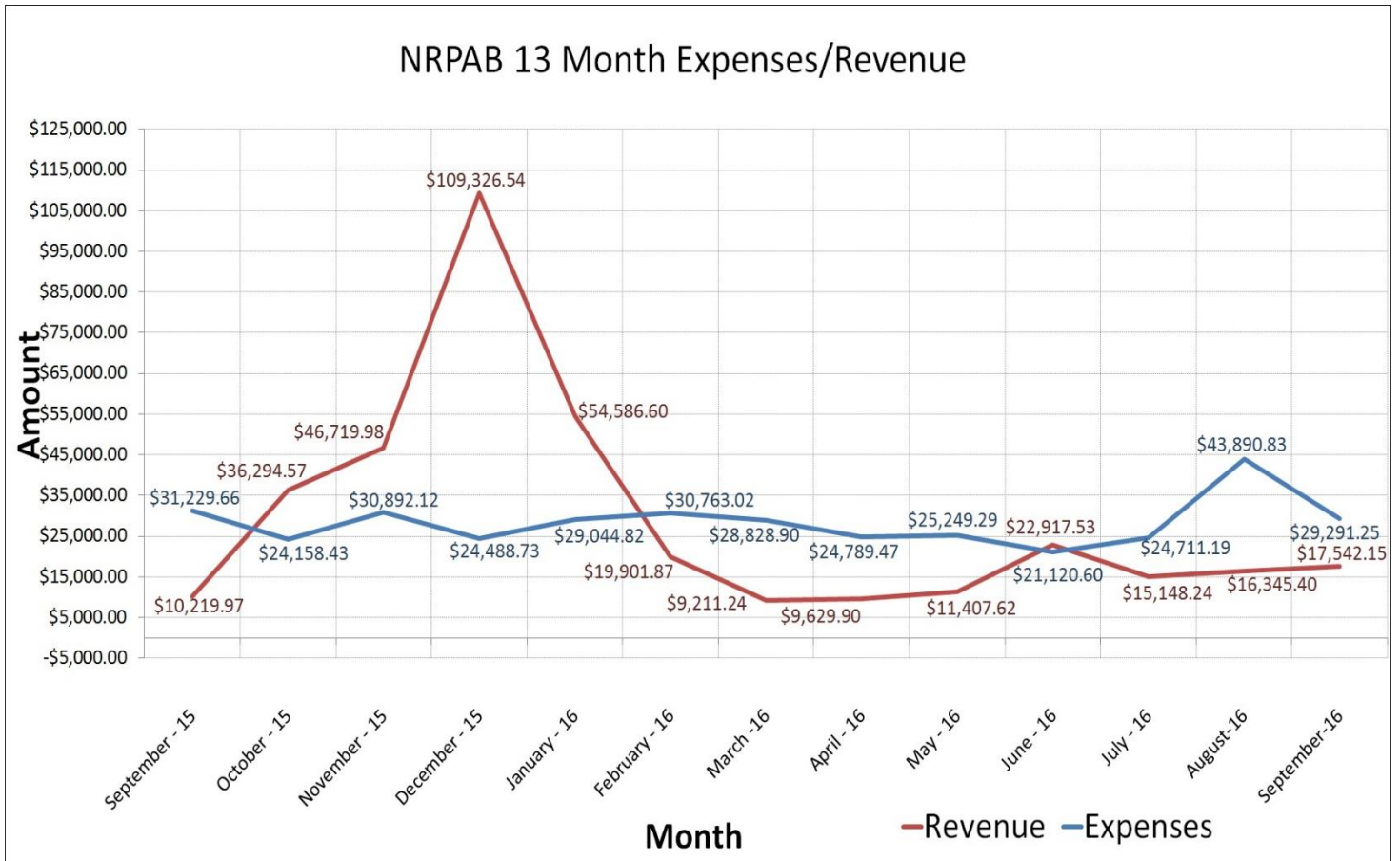
For more information on the Forum and how to register, please visit our Q&A webpage located at [https://www.appraisalfoundation.org/imis/TAF/Standards/Q\\_As/TAF/QAs.aspx](https://www.appraisalfoundation.org/imis/TAF/Standards/Q_As/TAF/QAs.aspx).

To access the Forum directly, visit <http://www.appraisal.answerbase.com/>.



# NRPAB Financial Snapshot as of September 30, 2016

For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$97,893.27 in expenditures and \$49,035.79 in revenues were recorded as of September 30, 2016. Actual expenses registered at 21.39 percent of the budgeted expenditures for the fiscal year; 25.21 percent of the fiscal year has passed. The Board began receiving real property appraiser credential renewal applications at the end of September, which will drive revenues for the next quarter. By the end of December, revenues received should exceed 70 percent of the projected revenues for the fiscal year.



Your credentialing card, continuing education requirements, education history, and USPAP download are all found in the Appraiser Login on the Board's website.



**Mission:**

The Mission of the Nebraska Real Property Appraiser Board is to administer and enforce the Nebraska Real Property Appraiser Act and Nebraska Appraisal Management Company Registration Act with efficiency, equity, and integrity to ensure that the citizens of Nebraska are protected and served, and that the appraisal services community is highly qualified through education, experience, and examination.

**Vision:**

The Nebraska Real Property Appraiser Board's vision is to provide leadership for the appraisal industry in the State of Nebraska. The Board will generate interest by promoting the appraiser profession, building positive public awareness of the industry throughout the State, and identifying and resolving issues faced by the public and appraisal services community. The Nebraska Real Property Appraiser Board will also establish and maintain standards for appraisers and appraisal management companies that lays the foundation for a highly qualified, motivated, dependable, and ethical appraisal services community in Nebraska.

- [AMC Registration](#)
- [Appraiser Credentialing](#)
- [Board Meetings](#)
- [Education](#)
- [Enforcement](#)
- [Laws and Regulations](#)
- [Public Information](#)
- [Request Forms](#)
- [Standard 3 Review Forms](#)

# Compliance Corner:

The Compliance Corner is where the latest disciplinary actions taken by the Board will be found. Between the months of July through September, the Board took no disciplinary action against any appraiser or appraisal management company. There have been four grievances filed against appraisers or AMC's and the Board has dismissed five Grievances during this time period.



## The Importance of Answering Questions Correctly on Applications

By Grant Krieger, Compliance and Education Officer

As we all know, the fun and exciting holiday season is upon us. Not only does this bring the ever so enjoyable weather that makes Nebraska great, it also means real property appraiser credential renewals are due. With renewal season in full swing, your friendly Compliance and Education Officer thought it would be a good idea to share the importance of correctly answering questions on applications.

All of the Board's applications for credentialing and renewals ask similar questions regarding ongoing investigations and disciplinary action. The best option is to answer these questions truthfully. If you are not sure that an action taken by the Board or a credentialing agency in another jurisdiction should be reported, please contact the Board's office for clarification. If you are unsure and answer "no" to a question in which you should have answered "yes," you may be found to be in violation of Nebraska Real Property Appraiser Act. When referring to acts or omission that shall be considered grounds for disciplinary action or denial of an application, Neb. Rev. Stat. § 76-2238 (2) states, "Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation."

To keep your focus on the holidays (or enjoyable weather), and not on answering more questions from the Board, please remember to take your time, and answer questions honestly, as you complete an application. If you are unsure of how to answer a question, contact the Board office for clarification at 402-471-9015, or me by email at: [grant.krieger@nebraska.gov](mailto:grant.krieger@nebraska.gov).

### The Three Appraisers



By CEO Krieger