

**REAL PROPERTY APPRAISER BOARD  
LIQUOR CONTROL CONFERENCE ROOM  
5<sup>TH</sup> FLOOR, NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE  
September 20, 2007**

**OPENING**

Chair Sheila Newell called to order the September 20, 2007, meeting of the Nebraska Real Property Appraiser Board at 9:04 a.m., in the Liquor Control Commission Conference Room, 5<sup>th</sup> Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Board Members Sheila Newell, Mathew 'Joe' Wilson, Timothy Kalkowski, James Bain, and R. Gregg Mitchell were present. Director Kitty Policky was also present.

**NOTICE OF MEETING**

Chair Newell announced 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 e-mail. 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. A copy of the Open Meetings Act was available for the duration of the meeting.

**ADOPTION OF THE AGENDA**

Chairman Newell reminded those present at 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 Mitchell moved to adopt the Agenda as printed. Board Member Bain seconded. The motion carried with Kalkowski, Mitchell, Wilson, Bain and Newell voting aye.

**WELCOME GUESTS**

Chair Newell welcomed the guests to the meeting and asked them to please sign the guest log. Signing the guest log were Diane Moore from the Moore Group and Cay Lacey, a Certified General appraiser from Great Plains Appraisal.

**APPROVAL OF THE MINUTES FROM AUGUST 23, 2007**

Chair Newell asked for any additions or corrections to the August 23, 2007 minutes. Board Member Bain moved to approve the minutes as presented. Board Member Mitchell seconded. The motion carried with Mitchell, Wilson, Bain, Kalkowski, and Newell voting aye.

**CHAIR REPORT**

Chair Newell presented to the Board her written response as Chairman to Appraisal Subcommittee Chair Virginia M. Gibbs subsequent to our July audit as performed by Denise Grave and Krist Klamat. A copy of the letter is attached and is considered part of these minutes. The response is required by the Subcommittee within 60-days concerning the items for which the Subcommittee addressed in their review to bring the Nebraska appraiser regulatory program into compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). Included with the response was the initial letter from the Appraisal Subcommittee to Chair Newell.

The response letter addressed the issues for which the review cited. First is the need for Nebraska to address the temporary practice regulations as they are not consistent with Title XI and ASC Policy Statement 5. As Chair Newell pointed out that although it is true that Title 298, Rules and Regulations, are not in complete compliance, it is also true that the Nebraska Revised Statute §76-2233.01 is in compliance. In Nebraska, State Statute always takes precedence over Rules and Regulations. The process of amending the Rules and Regulations is always in progress and it was not the intent of the Board to include the requirements as stated in Chapter 8 Section 004, but an oversight. Newell also pointed out that although the error is an oversight, the Board does not implement the requirement in practice. The Board implements a requirement under the federal guidelines and will make the necessary amendment to Title 298 and will advise the ASC Policy Manager monthly on the status of this necessary change.

The next item cited was Nebraska's neglect in submitting appraiser data to the ASC at least monthly as requires by ASC Policy Statement 8 D from August 2005 to January 2007. Chair Newell pointed out in the correspondence that as of February 8, 2007, personnel changes were made and with the over six years of experience of the new Director, the Board would be submitting the required appraiser data to the ASC in a timely basis. Both letters can be found on the Appraisal Subcommittee website.

Chair Newell reminded the Board of the two 2-hour presentations by Lynne Heiden to the Mortgage Banker's Association on Tuesday, September 11, 2007. Approximately 50 individuals representing the lending community attended the sessions. The purpose of the presentation was to present to the lending community the changes in the criteria for 2008 as well as their role interacting with the Nebraska Real Property Appraiser Board. Heiden expressed thanks to James Bain for his recommendation to individuals and encouraging their attendance.

The Chair reminded members, education providers and instructors to forward all questions from applicants concerning their status, education, examination, experience or verification of experience to have that individual write a letter to the Board. Interpretation and understanding will be crucial in the next three months.

### **DIRECTOR'S REPORT**

Director Policky began the report by noting that there was only one appraiser difference from last month and that the appraiser total would probably not change much before the end of the year. The cost to upgrade and renew at the same time is pretty overwhelming. In most cases the cost would approach \$425.00. Most candidates are waiting to pay for their new upgrade effective January 1, 2008. Renewals are ready and will be mailed on Friday, September 21, 2007.

AMP Testing Update – Dr. Fabrey from AMP testing has scheduled numerous conference calls with all states to discuss the most efficient and effective means of incorporating the new testing requirements under the 2008 criteria and how the examinations can best be administered. Dr. Fabrey has kept the Nebraska Real Property Appraiser Board up to date by e-mail as information becomes available. AMP is in the process of negotiating and preparing for the new testing.

2008 Scope of Practice was presented to the Board and will be included with the renewals and pocket cards. The Scope of Practice is being sent, by the request of the Board, to each individual so they might understand what 2008 will bring to the respective credential. The Scope of Practice is presented by Statute and the Statute cited can be found at the end of each descriptive.

Chair Newell asked for a clarification of the examination process. The examination may be taken at designated H&R Block locations in Bellevue, Lincoln, North Platte and Scottsbluff. A candidate must consider the time frame requirements for experience as federally mandated when deciding when to sit for the exam if time is an issue. You cannot sit for the exam if you cannot meet the required time frame prior to the expiration of the exam. The exam is good, as dictated by statute, for one year after passing. A candidate must take into consideration the time frame and the testing simultaneously when making a decision. By statute a candidate is allowed to retest twice. If the candidate fails to pass after three opportunities, the application process must start over and only if sufficient time remains. If an applicant fails the exam, AMP notifies the applicant and the Board. In order to retest, the Board must notify AMP again that the applicant may retest. If the process is completed, the applicant could retest the next day contingent upon the timing of notification. .

Board Member Mitchell suggested creating a Q&A for applicants and post on the website. Chair Newell suggested that although an applicant may not be able to meet the requirements of the certified or license credential that perhaps they could at least become registered if they cannot meet the time frame.

Returning to the Scope of Practice, Board Member Kalkowski asked if any one group of credentials would be affected more than another. The credential most affected is that of the Registered credential. Not only is the scope non-complex with transaction value less than \$250,000, but the credential will be retired by 2012. Kalkowski addressed not only the federal *de minimis* but the difference between the complex and non-complex. Kalkowski requested that the Director send a copy of the Scope of Practice to the Nebraska Banker's Association and the Nebraska Mortgage Brokers to inform them of the changes going into effect. Board Member Mitchell requested that the "non-complex" under registered and licensed be made bold type to emphasize the "non-complex."

## **RECEIPTS AND EXPENDITURES REPORT – AUGUST**

The receipts and expenditures for August were reviewed by the Director by line item with the Board. Attached was a new report in addition to the Budget Status Report identified as the "Transaction Journal" so the Board could mainly observe the amount of funds being spent on reviews of appraisal demonstration reports and discuss the state of funds facing the Appraiser Board subsequent to the mass amount of applicants. Board Member Mitchell moved to accept and file the August 2007 Receipts and Expenditures report for audit. Board Member Wilson seconded. The motion carried with Bain, Kalkowski, Mitchell, Wilson, and Newell voting aye.

## **UNFINISHED BUSINESS**

### **1. Cap Guidelines and Qualifications Pre-requisite Education**

Chair Newell asked to table the discussion until after the AARO meeting. On Tuesday, October 2, a discussion addressing the AQB Criteria Implementation issues will be a part of the agenda.

## **2. Experience Log Format**

Chair Newell presented examples of various types of logs based on samples of those used in other states. She noted that most logs were based on the new criteria for 2008 indicating a separate log was created for each credential. The present log used by this Board is basically for residential. Appraisal Subcommittee Statement 10 will require the experience log contain sufficient information to validate the existence of the appraisal. The criteria must enable an individual to select and identify what they have done from the information as presented on the log. Does the Board want to create a specific experience log for each credential or try to create one that addresses all criteria? Vice Chair Wilson suggested that Newell create various examples of logs to include those submitted by Barry Couch and send them to each member prior to the meeting for consideration.

Board took a break at 9:55 a.m.

Board meeting reconvened at 10:10 a.m.

## **3. Review/Investigator training update:**

Chair Newell reported an update to the Board for the reviewer training session in North Platte by Lynne Heiden, a Certified General appraiser and AQB certified USPAP instructor from Kearney on November 14<sup>th</sup> from 1-5 p.m. A room at the Sandhills Convention Center has been reserved. Cay Lacey, a Certified General appraiser and AQB certified USPAP instructor from Lincoln, will teach the training session in Lincoln on November 16<sup>th</sup> at the Nebraska State Office Building, and lower level "B" from 10 a.m.-3 p.m. The goal of the training is to establish guidelines and consistency for reviewing application appraisal reports and disciplinary appraisal reports and the effective application and interpretation of all USPAP standards and rules.

## **4. AARO Meeting – September 28-October 2, 2007 – Washington, DC/Reimbursements**

The cost of mileage and parking was inadvertently omitted from the August 23rd motion. Board member Kalkowski proposed reimbursing mileage and parking for participants attending the AARO Conference in Washington, D.C. Bain seconded. Motion carried with Kalkowski, Mitchell, Wilson, Bain and Newell voting aye.

## **NEW BUSINESS**

### **1. Rules and Regulations amendments**

The Nebraska Real Property Appraiser Board needs to review all changes that need to be made to the rules and regulations as it is almost time to set into motion the procedures for changes and requests for legislation.

### **2. Affidavit of Experience Log**

Statement 10, Section E of the Appraisal Subcommittee relates to the effective, consistent, documented enforcement process. Effective and well documented investigations. Past have exercised the option of asking credentialed appraisers to submit an experience log document their experience for a specific time period. Board Newell proposed an affidavit certifying their

experience log is true and complete will assist with documentation for enforcement. The example affidavit distributed to each member was discussed. The affidavit is for enforcement only and not for applicants. The purpose of the affidavit is to verify the requests as made by the Board. Board deferred a decision concerning the affidavit until legal counsel Bill Blake had reviewed the document.

### **GENERAL PUBLIC COMMENTS**

Chair Newell expressed the Board's thanks to individuals such as Diane Moore and Cay Lacey who are always present and available for assistance at the meetings.

### **EDUCATION**

The education offering by Heiden to the Nebraska Mortgage Association was addressed during the Chair's report.

The Columbia Institute distributed education information to Nebraska credentialed appraisers. Unfortunately, the information was incorrect. The post card indicated the seminar: "Fundamentals of Appraisal Review" was approved by the Board and it was not. Director Policky reported to the Board that she was aware of what the Columbia Institute had done and was in violation. She had made contact with the school and advised the administrator that should a Nebraska appraiser pay for a seminar and attend a seminar not approved by the Board, there would be legal ramifications. The USPAP Update was approved for only seven (7) hours where as the Columbia Institute advertised eight hours. The Columbia Institute representative advised the Director that the post cards advertising the seminar offerings were printed prior to notification. Chair Newell expressed disappointment with the advertisement of a seminar not approved and felt it was necessary for the Director to send a letter to the Columbia Institute indicating reconsideration of the continuing education will be added to the September meeting agenda. It was agreed that notification would be sent to the Columbia Institute and the item would be placed on the October 18<sup>th</sup> agenda.

Vice Chair Wilson moved to approve the following continuing education seminars and instructors:

Appraisal Institute:

On-Line /*Scope of Work: Expanding Your Range of Services* – 7 hours/C2390-I

Instructor: Stephanie Coleman

On-Line /*The Professional's Guide to the Uniform Residential Appraisal Report* – 7 hours/C2729-I

Instructor: Alan Simmons

Trans-American Institute of Professional Studies: Danny Stoeber for all courses except agriculture.

Mid-West Appraisers Association: Danny Stoeber for all seminars except agriculture.

Board Member Mitchell seconded the motion. The motion carried with Mitchell, Wilson, Bain, Kalkowski and Newell voting aye.

Vice Chair Wilson moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and enforcement. A closed session is clearly necessary

to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants or enforcement. The time on the meeting clock was 10:51. Bain seconded the motion. The motion carried with Wilson, Kalkowski, Bain, Mitchell and Newell voting aye.

Vice Chair Wilson moved to come out of executive session at 1:18 p.m. Board Member Bain seconded the motion. The motion carried with Kalkowski, Bain, Mitchell, Wilson and Newell voting aye.

Chair Newell announced for the record that Board Member Bain had left the executive session at 11:00 a.m. due to a family illness.

Vice Chair Wilson moved to approve the following applicants for the license credential:  
L534, Hali Kenzy; L535, Tanya Kresl with the selection of additional reports for experience verification.

To deny L539 with resubmission of three reports.

Approve the following applicants for the certified residential credential:  
CR165, Rebecca J. Renard; CR145, Art Coburn; CR150, Zach Renner; CR168, Nancy Salmon; CR171, Shawn Abbott; CR172, Holly O'Rourke; and, CR173, Renee Faden with the selection of additional reports for experience verification.

To deny CR142 and request new 2-4 family report and recommendation that the application take a small income course prior to resubmission; deny CR146 and resubmit a new residential report on a single family dwelling with an age of less than 20 years and 2-4 family report; and deny CR161 and resubmit a new 2-4 family report.

Approve the following applicants for the certified general credential: CG431, Nicholas Dizona with the selection of additional reports for experience verification. To deny CG424 and resubmit two new reports.

Board Member Mitchell stressed the approval of an applicant included the selection of a verification report as required to substantiate the experience logs.

Vice Chair Wilson moved to ratify the following applicants in the sequential application process for examination: L540, L541, L542, L543, CR149, CR154, CR163, CR164, CR166, CR167, CR169, CR170, CR174, CR175, CR177, CR178, CR179, CG415, CG426, CG430, CG432, CG433, CG434, CG435, CG435, and CG437.

The Motion was seconded by Mitchell. The motion carried with Board members Mitchell, Wilson, Kalkowski, and Newell voting aye.

Vice Chair Wilson moved to ratify the following sequential applicant for examination: CG436. Board Member Mitchell seconded the motion. The motion carried with Wilson, Kalkowski and Mitchell voting aye. Chair Newell abstained.

Board Member Mitchell moved to ratify the following sequential applicant for examination: CR153. Kalkowski seconded the motion. The motion carried with Kalkowski, Mitchell, and Newell voting aye. Vice Chair Wilson abstained.

Vice Chair Wilson moved to take the following enforcement actions:

- 06-16 Appoint Hearing Officer
- 06-22 Amend January 25, 2007 motion for filing formal complaint.
- 07-04 Complete mentoring under approved certified appraiser.
- 07-05 & 07-17 Consent Agreement for Board approved mentor.
- 07-07 File formal complaint.
- 07-08 Board voted to combine case 06-20 and 07-08.  
Reference 07-08. Requested log of appraisals from August 2006 to January 26, 2007. Log submitted to this office 8/22/2007. Send affidavit to appraiser attesting to experience log submitted.
- 07-13 Request true copy of two reports and workfile from submitted log.
- 07-14 Hold – Review not returned.
- 07-20 Resident and no longer reciprocal. Request certified general reciprocal pocket card and credential be returned to office within 15 days.
- 07-24 Request true copy of appraisal report and workfile.

Board Member Kalkowski seconded. The motion carried Mitchell, Wilson, Kalkowski and Newell voting aye.

Vice Chair Wilson moved to take the following enforcement action:

- 07-23 Request true copy of appraisal report and workfile

Board member Mitchell seconded the motion. The motion carried with Wilson, Kalkowski and Mitchell voting aye. Newell abstained. It should be noted that Newell excused herself from the executive session for discussion on this case.

Chairman Newell moved to take the following enforcement action:

- 07-19 Send for Standard 3 review.

Board member Mitchell seconded the motion. The motion carried with Kalkowski, Mitchell, Kalkowski voting aye. Board Member Wilson abstained.

Chair Newell requested approval by Board for additional expenses for arriving early to assist with applicants. Board Member Mitchell moved to approve the additional expenses. Board Member Kalkowski seconded the motion. Motion carried with Wilson, Kalkowski, and Mitchell voting aye. Chair Newell abstained.

Next meeting date is scheduled for October 18, 2007.  
The meeting was adjourned at 3:28 p.m.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on August 5, 2007, in compliance with Nebraska Statute §84-1413(5).