

**NEBRASKA REAL PROPERTY APPRAISER BOARD  
CONFERENCE ROOM "F", LOWER LEVEL  
NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**October 10, 2013 Meeting Minutes**

**A. OPENING**

Chairman Philip Barkley called to order the October 10, 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 October 8, 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 Woodle, Terrell, Langemeier, Kubert 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 Langemeier, Woodle, Terrell, Kubert and Barkley voting aye.

Break from 10:15 a.m. to 10:25 a.m.

Bradley McCumber appeared before the Board

Break from 10:58 a.m. to 11:15 a.m.

Board Member Kubert moved to come out of executive session at 11:15 a.m. Board Member Langemeier seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

#### **F. WELCOME AND CHAIR'S REMARKS**

Chairman Barkley welcomed guests to the meeting. Diane Moore and William Mulligan were the only public members in attendance.

#### **G. BOARD MEETING MINUTES**

##### **1. APPROVAL OF SEPTEMBER 18, 2013 MEETING MINUTES**

Chairman Barkley asked for any additions or corrections to the September 18, 2013 minutes. Board Member Kubert indicated that the action for 13-26 under Section D on Page 8 should state "Send appraisal report for Standard 3 review." Director Kohtz informed the Board that this action will be corrected. With no further discussion Board Member Woodle moved to adopt the minutes as amended. Board Member Langemeier seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

#### **H. DIRECTOR'S REPORT**

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of October 10, 2013. The Director summarized each chart and reported the number of appraisers as follows: 84 total Licensed, 77 resident and 7 reciprocal; 215 total Certified Residential, 176 resident and 39 reciprocal; 382 total Certified General, 255 resident and 127 reciprocal; and 11 Registered for a total of 692 appraisers. The total number of appraisers is up 2 from September 2013, and up 1 compared to October 2012. Director Kohtz also indicated that there are 10 Trainees, which is the same as September 2013, and up 4 from October 2012.

In addition, the Director addressed the number of temporary permits issued. There were 12 permits issued in September 2013 compared to 11 permits issued in August 2013. As of September 30, 2013, 121 temporary permits have been issued for the calendar year. Director Kohtz indicated that the number of temporary permits issued continues to hold steady during 2013. Finally, Director Kohtz reported 105 AMCs registered, and no new AMC applications have been submitted since the last meeting.

#### **I. FINANCIAL REPORT – OCTOBER 2013**

The receipts and expenditures for September were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific September expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$23,913.47 in expenditures and \$4,835.24 in revenues were reported. As of the end of September, expenses amount to 19.28 percent of the budgeted expenditures for the fiscal year; 25.21 percent of the fiscal year has passed. Considerations were made for expenditures for monthly obligations. Finally, 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 September 2013 Budget Status reports for receipts and expenditures for audit. Board Member Woodle seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

Director Kohtz brought attention to The Appraisal Foundation's offer to distribute the 2014-15 edition of USPAP to Nebraska resident real property appraisers at \$30.00 per copy compared to the normal \$20.00 per copy. The Director provided a cost analysis pertaining to The Appraisal Foundation or the Board handling the shipping of the books. The cost would be \$30.00 per book if The Appraisal Foundation ships the books, and the cost would be 28.21 per book if the Board ships the books. Chairman Barkley indicated that the Board had The Appraisal Foundation ship the books in the past, but many of the books were lost and The Appraisal Foundation had no explanation. The Chairman indicated that the board staff would have more control if the books were shipped through the office. Board Member Langemeier made a motion to purchase the 2014-15 edition of USPAP for Nebraska resident real property appraisers at the \$20.00 cost per book and ship from the Board's office. The motion was seconded by Terrell, and carried with Woodle, Terrell, Langemeier, Kubert and Barkley voting aye.

Board Member Langemeier asked if the Nebraska resident real property appraisers are aware that the 2014-15 edition of USPAP will be provided. Director Kohtz indicated that resident credentialed appraisers have not been notified in any way. The Board agreed that notification shall be provided to the Nebraska resident real property appraisers. Board Member Kubert made a motion to authorize Director Kohtz to prepare and send a "Memo From the Board" notifying Nebraska resident real property appraisers that the 2014-15 edition of USPAP will be provided by the Board at no cost. The motion was seconded by Langemeier. Prior to the vote a question was asked regarding the standards used to determine who receives the book. Director Kohtz indicated that those who renew will receive the latest edition of USPAP. The Board discussed the deadline to make this determination, and agreed that since the deadline for renewal is November 30, 2013, the USPAP books should be distributed to any Nebraska resident real property appraiser actively credentialed as of December 1, 2013. Board Member Kubert amended the motion to authorize Director Kohtz to prepare and send a "Memo From the Board" notifying Nebraska resident real property appraisers that the 2014-15 edition of USPAP will be provided by the Board to all Nebraska resident real property appraisers actively credentialed as of December 1, 2013 at no cost to the appraiser. The motion was seconded by Langemeier, and carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

## **J. GENERAL PUBLIC COMMENTS**

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

## **K. EDUCATION**

Board Member Woodle moved to hold the following education request and request clarification of course materials:

### **1. New Qualifying Education Requests**

#### **B. Trans-American Institute of Professional Studies, Inc.:**

- 1. The Approaches to Value (Methodology and Applications) / 30 hours / QE21334**

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

Board Member Kubert moved to approve the following education requests as listed:

**1. New Qualifying Education Requests**

**A. Appraisal Institute:**

1. Apartment Appraisal: Concepts & Applications / 16 hours / **QE21335**
2. Residential Report Writing and Case Studies / 15 hours / **QE21336-L/CR007**
3. Advanced Residential Applications and Case Studies–Part 1/ 15 hours / **QE21337-L/CR008**
4. Advanced Residential Report Writing – Part 2/ 30 hours / **QE21338**
5. General Appraiser Report Writing and Case Studies / 30 hours / **QE21339-CG007**

**2. New Continuing Education Requests**

**A. Trans-American Institute of Professional Studies, Inc.:**

1. Enhancing Professionalism in Appraisal Practice / 7 hours / **C21334**

**3. Continuing Education Renewal Requests**

**A. Appraisal Institute:**

1. National USPAP Update / 7 hours / **C21301**

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

Board Member Kubert moved to take the following actions on instructor as listed:

**4. Instructor Requests**

**A. Appraisal Institute:**

1. Kenneth Alford - Apartment Appraisal: Concepts & Applications / **QE21335 - *Approved***  
Residential Report Writing and Case Studies/  
**QE21336-L/CR007- *Approved***  
Advanced Residential Applications and Case Studies – Part 1/  
**QE21337-L/CR008 - *Approved***  
Advanced Residential Report Writing – Part 2/ **QE21338 - *Approved***  
General Appraiser Report Writing and Case Studies/  
**QE21339-CG007 - *Approved***
2. Thomas Kirby – National USPAP Update/ **C21301 - *Approved***

**B. Trans-American Institute of Professional Studies, Inc.:**

1. Lynne Heiden - The Approaches to Value (Methodology & Applications) & Enhancing Professionalism in Appraisal Practice/ **QE21340, C21334 - *Approved***
2. John Seuntjens – Enhancing Professionalism in Appraisal Practice/ **C21334 - *Approved***
3. Ann Susko - Enhancing Professionalism in Appraisal Practice/ **C21334 – *Hold; request clarification of answer regarding previous disciplinary action on application.***

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

## **L. UNFINISHED BUSINESS**

- 1. COUNTY APPRAISER CONTRACTS UPDATE:** No update.
- 2. NEW CREDENTIAL UPDATE:** Board Member Kubert indicated that he was invited to the Southeast Nebraska County Assessor's meeting in November to discuss the Board's and the County Assessor's legislation. Board Member Kubert and Director Kohtz will attend.
- 3. STATE SERVICE CONTRACTS REQUIREMENTS:** Director Kohtz provided an update regarding state service contracts requirements. The Standard 3 reviews completed by credentialed appraisers for the Board meets the definition of "Contracts for Services" in Neb. Rev. Stat. § 73-502 (1); therefore, each contract will need to be entered into the EnterpriseOne Payroll and Financial Center in the future. The Board is exempt from the competitive bidding requirements because it does not spend in excess of \$50,000.00 in the aggregate on review appraisals in any fiscal year, which means that the Board is free to employ any method that it sees fit to select Standard 3 reviewers. Although it is AAG Hart's opinion that all Standard 3 reviews fit under one contract, Director Kohtz indicated that he wanted to gather more information from Ms. Pape, the State Procurement Manager. Director Kohtz will provide a final report at the November meeting.

## **M. NEW BUSINESS**

- 1. AMC REQUEST TO NOT INCLUDE APPRAISAL INVOICE IN APPRAISAL REPORT:** Director Kohtz presented a request sent from a registered AMC to a board member, requesting that the real property appraiser not include any invoices with any reports. A discussion took place regarding the request, and the Board agreed that it was a request only; the organization cannot require that an appraiser not include the invoice with an appraisal report. No action was taken.
- 2. NRPAB OFFICE RELOCATION UPDATE:** Director Kohtz informed the Board that Administrative Services Buildings Division indicated that the Board's relocation plans will change. The Board will not move to the 5<sup>th</sup> floor of the Executive Building because of legislation enacted after last year's session that requires State Supreme Court employees to occupy the 5<sup>th</sup> floor. Buildings Division has proposed that the Board relocate to the first floor of the State Office Building. The Board would be accompanied by the Real Estate Commission and the Abstractors Board of Examiners. Director Kohtz also indicated that no floor plan or an idea of the available space has been made available to date. After discussion, the Board agreed that the proposed space should not be accepted until more information is received from Buildings Division.
- 3. RESIDENTIAL UNIT ON INDUSTRIAL ZONED LAND:** The Board discussed a response from John Brenan with The Appraisal Foundation received by Compliance and Licensing Specialist Weir concerning the ability of a residential appraiser to appraise a residential unit on industrial zoned land. Mr. Brenan indicated that a residential appraiser may appraise this property if he or she is competent to do so, even if the highest and best use exceeds a 1-4 unit residential property. Mr. Brenan also indicated that many residential appraisers would have to rely on the experience of others to perform a credible highest and best use analysis. Compliance and Licensing Specialist Weir brought attention to a similar question found in The Real Property Appraiser Qualification Criteria Q&A's under "Scope of Practice," and indicated that it contradicts what Mr. Brenan said in his email. The response to Question #2 in the Q&A's indicates that a residential real property appraiser may not appraise property in which the highest and best use is outside of his or her scope of practice for a Federally-Related Transaction unless the appraisal is at a minimum co-signed by a certified general real property appraiser. The question was asked, if a residential unit exists on an industrial or agriculture property, isn't the highest and best use residential because of what already exists? No action was taken.

## **N. LEGISLATIVE REPORT AND BUSINESS**

- 1. 2015 LAW REWRITE UPDATE:** Director Kohtz provided an update to the Board regarding the 2015 Law Rewrite. The Director informed the Board that the panel members have been provided a copy of each drafted bill for review, and that he had a discussion with Bill Marienau, Counsel for the Banking, Commerce and Insurance Committee. Mr. Marienau indicated that it would make no difference if a Senator within the Committee or outside of the Committee introduced the bills. It is the Committee's internal policy to give priority to legislation for their agencies. A discussion took place regarding Senator McCoy's availability, and Board Member Langemeier informed the Board that he contacted Senator Gloor about possibly sponsoring the Board's bills.
- 2. USPAP REQUIREMENT PERIOD:** A discussion took place regarding the possibility of changing the 7-Hour USPAP Update requirement period from once every two years to within six months to one year of release of the latest edition. Board Member Barkley expressed concern for those appraisers in the Western part of the state since education providers only offer the course once a year in many areas. The Board requested that Director Kohtz research potential risks and what other states do. Director Kohtz will report back at the November meeting.

## **O. BOARD POLICIES AND PROCEDURES**

### **1. BOARD POLICIES**

- a. NEW BOARD POLICIES:** The Board reviewed amended Board Policy 12-04, held Board Policy 13-03, and new Board Policies 13-12 and 13-13. Board Member Kubert asked that Board Policy 12-04 be placed on the agenda as amended to include individuals employed permanently on a part-time basis in lieu of a full-time basis only. After further review, Board Member Kubert indicated that he no longer supports this change because it may provide a loop hole for those not credentialed to appraise real property in the State of Nebraska. No action was taken.

The Definition of Instructor, drafted Board Policy 13-03, was discussed by the Board. A request was made to remove "maintenance and improvement" and "continuing" from the language, because the intent is that the definition should apply to both continuing and qualifying education. As written, this intent is unclear. Board Member Kubert made a motion to approve Board Policy 13-03 as amended. Seconded by Terrell, and carried with Langemeier, Woodle, Terrell, Kubert and Barkley voting aye.

Real Property Appraiser Credentialing Requirements for Appraisal Experience, Board Policy 13-12, was amended to say "as of" January 1, 2014, instead of "after" January 1, 2014. Board Member Kubert made a motion to approve Board Policy 13-12 as amended. The motion was seconded by Langemeier, and carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

Trainee Real Property Appraiser/Supervisor Approval Guideline, drafted Board Policy 13-13, was reviewed by the Board. Board Member Kubert made a motion to approve Board Policy 13-13 as presented. Seconded by Woodle, and carried with Terrell, Langemeier, Woodle, Kubert and Barkley.

- b. CURRENT BOARD POLICIES:** The Board discussed the Appraisal Subcommittee audit board policy review, and Board Member Kubert made a motion to take the following actions on current Board Policies:

**02-04 / Retire**  
**02-09 / Retire**  
**04-02 / Retire**  
**06-03 / Retire**  
**06-07 / Retire**

The motion was seconded by Terrell. Chairman Barkley called for a vote. The motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

**P. OTHER BUSINESS**

- 1. CONFERENCES/EDUCATION:** No discussion.

Break from 1:15 p.m. to 1:24 p.m.

Board Member Kubert moved that the Board go back into executive session for the purpose of discussing applicants for credentialing, investigations and personnel matters. The time on the meeting clock was 1:24 p.m. Board Member Langemeier seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

Board Member Kubert moved to come out of executive session at 1:55 p.m. Board Member Langemeier seconded the motion. The motion carried with Woodle, Terrell, 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:

**L13002 / Approved to sit for exam and select three reports for Standard 3 review.**  
**CR13014 / Approved to sit for exam and select three reports for Standard 3 review.**  
**CG13016 / Invite to advisory meeting.**  
**CG13019 / Approved to sit for exam and select three reports for Standard 3 review.**  
**CG13013R / Hold**  
**CR13006 / Hold**  
**CG647 / Hold**  
**L607 / Denied**  
**CG631 / Hold**  
**CR13007 / Hold**  
**CR13009 / Approved for 1000 hours, additional 1000 hours required with one being a 2-4 family residential unit.**  
**CR13012 / 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:

**CG13010 / Hold**

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

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

**Application 2 / Denied**

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:

- 11-12 / Hold**
- 11-26 / Hold**
- 12-06 / Hold**
- 12-11 / Hold**
- 12-20 / Hold**
- 12-21 / Hold**
- 12-27 / Hold**
- 12-31 / Hold**
- 13-06 / Hold**
- 13-07 / Hold**
- 13-09 / Hold**
- 13-10 / Hold**
- 13-14 / Hold; request denied**
- 13-15 / Hold; request denied**
- 13-20 / Send Appraisal Report for Standard 3 review.**

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

Board Member Woodle moved to take the following enforcement actions:

- 12-24 / Hold**
- 12-29 / Hold**
- 13-18 / Amend terms of Consent Agreement to include Respondent shall submit a quarterly log for one year beginning three months after the execution of the Consent Agreement. The Board shall select one appraisal report from each quarterly log for the Respondent to have a Standard 3 review conducted on the Board approved form. Each appraisal report, workfile, and the Standard 3 review report for each Board selected appraisal report shall be submitted to the Board within sixty days of the Board's selection. Submissions must be compliant with Nebraska law.**

**13-19 / Amend terms of Consent Agreement to include Respondent shall submit a quarterly log for one year beginning three months after the execution of the Consent Agreement. The Board shall select one appraisal report from each quarterly log for the Respondent to have a Standard 3 review conducted on the Board approved form. Each appraisal report, workfile, and the Standard 3 review report for each Board selected appraisal report shall be submitted to the Board within sixty days of the Board's selection. Submissions must be compliant with Nebraska law.**

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

Vice Chair Kubert moved to take the following enforcement actions:

**13-13 / Consent Agreement signed by Board Chair.**

**13-23 / Hold**

**13-24 / Hold**

**13-25 / Hold**

**13-26 / Hold**

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

Vice Chair Kubert moved to take the following enforcement actions:

**13-21 / Offer informal meeting. Board Member Woodle appointed as Investigating Board Member.**

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

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

The Board discussed Item 5.

The Board discussed Inquiry I13-12, in which an organization appears to be offering real property appraisal services. It does not appear that the organization employs any Nebraska credentialed real property appraisers. In addition, it appears that the organization may be operating as an appraisal management company without first obtaining authorization from the Board.

The Board discussed Inquiry I13-13, in which an organization appears to be operating as an appraisal management company without first obtaining authorization from the Board.

The Board discussed Inquiry I13-14, in which an organization appears to be operating as an appraisal management company without first obtaining authorization from the Board.

The Board discussed an individual advertising as a Nebraska credentialed real property appraiser in the Yellow Pages through an organization. Although the organization does employ Nebraska credentialed appraisers, the individual does not hold a credential.

The Board discussed personnel matters.

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

- I13-4 / Hold**
- I13-5 / Hold**
- I13-6 / Hold**
- I13-7 / Hold**
- I13-12 / Send letter of inquiry**
- I13-13 / Send letter of inquiry**
- I13-14 / Hold**
- Item 5 / Open Inquiry I13-17 and hold.**
- Item 9 / Send cease and desist letters to individual and organization.**

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

**P. NEXT MEETING DATE – NOVEMBER 21, 2013, LOWER LEVEL “F” NSOB**

**Q. ADJOURNMENT**

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

At 2:04 p.m. Chairman Barkley adjourned the October 10, 2013 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz  
Director

These minutes were available for public inspection on October 25, 2013, in compliance with Nebraska Statute §84-1413 (5).