

NEBRASKA REAL ESTATE COMMISSION

March 21, 2013

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Acting Chairperson Dover convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on March 21, 2013, in the Staybridge Room of the Staybridge Suites, located at 2701 Fletcher Avenue in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Chairperson Gale and Commissioner Freeman, who were absent and excused. Also present were Director Greg Lemon, Deputy Director for Education and Licensing Teresa Hoffman, Deputy Director for Enforcement Terry Mayrose, and Administrative Assistant Monica Rut.

Notice of Meeting (Adopt Agenda)

Director Lemon presented a public notice and proofs of publication thereof relating to this meeting, all of which are attached to and made a part of these minutes. Acting Chairperson Dover reported that all Commissioners had been notified of the meeting simultaneously, by mail and e-mail, and that a proposed tentative agenda accompanied the notification.

Acting Chairperson Dover pointed out to those in attendance that a public copy of the materials being used during the meeting were available to the public on the counsel table in the meeting room; that a copy of the Open Meetings Act was posted on the easel located in the northwest corner of the meeting room by the west entrance; and that the procedures followed were in accordance with the Open Meetings Act. Acting Chairperson Dover asked that guests sign the guest list.

Director Lemon noted that no agenda items had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Ptak and seconded by Rouch to adopt the final agenda as presented. Motion carried with Avery, Dover, Ptak, Rouch, and Stange voting aye, with Freeman and Gale not participating or voting, being absent and excused.

Minutes of January 17, 2013

The minutes of the Commission meeting held on January 17, 2013, were considered.

There was discussion regarding errors found on pages seven and twelve of the Minutes. The Exhibit was corrected for attachment to these minutes.

After review, a motion was made by Avery and seconded by Rouch to approve the minutes as amended. Motion carried with Avery, Ptak, Rouch, and Stange voting aye, with Freeman abstaining, with Gale not participating or voting, being absent and excused, and with Dover not voting having not been in attendance at the January Meeting.

Public Comment

Acting Chairperson Dover asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business. No audience member indicated a desire to come forward.

Receipts and Expenditures Report for January & February

Director Lemon presented the Receipts and Expenditures Reports for January and February. Copies of said reports are attached to and made a part of these minutes. Director Lemon noted that an explanation page was included in each report. (Note: It was discovered after the meeting adjourned that the Exhibit for this Agenda Item was incorrect. The cash fund balance for February 29, 2012 was set forth as "\$1,110,996.78" when, in fact, the balance should have been "\$1,055,743.39". The Exhibit was corrected for attachment to these minutes.)

The cash fund balance as of January 31, 2013, was \$1,048,643.57 which compared to a cash fund balance of \$1,110,966.78 on January 31, 2012.

The cash fund balance as of February 28, 2013, was \$999,260.61, which compared to a cash fund balance of \$1,055,743.39 on February 29, 2012.

After discussion, a motion was made by Ptak and seconded by Rouch to file the January & February Receipts and Expenditures Report for audit. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Specialized Registrations

Time-Share Registration – The Villas at Disney’s Grand Floridian Resort

Director Lemon presented a specialized registrations report which included the time-share registration for The Villas at Disney’s Grand Floridian Resort. A copy of said report is attached to and made a part of these minutes.

A motion was made by Avery and seconded by Rouch to approve the registration as presented. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report

Deputy Director Hoffman presented for ratification the Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Stange and seconded by Avery to ratify issuance of the licenses as set forth in the report. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Examination Report – January & February

Deputy Director Hoffman presented for ratification the January and February Examination Reports, copies of which are attached to and made a part of these minutes.

There was discussion regarding the preferred reporting statistics.

After review, a motion was made by Stange and seconded by Avery to ratify the January and February Examination Report for the purpose of issuing licenses. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Real Estate Education Matters

Pre-License Education Provider/Course Approval

Deputy Director Hoffman presented for ratification the Pre-License Education Provider/Course Approval Report, a copy of which is attached to and made a part of these minutes.

Pre-License Education Instructor Approval

Deputy Director Hoffman presented for ratification the Pre-License Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

Continuing Education Activity Approval

Deputy Director Hoffman presented for ratification the Continuing Education Activity Approval Report, a copy of which is attached to and made a part of these minutes.

Continuing Education Instructor Approval

Deputy Director Hoffman presented for ratification the Continuing Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

Broker-Approved Training Recognition

Deputy Director Hoffman presented a Broker-Approved Training Recognition Report, a copy of which is attached to and made a part of these minutes.

Continuing Education Renewal Report

Deputy Director Hoffman presented the Continuing Education Renewal Report, a copy of which is attached to and made a part of these minutes.

Deputy Director Hoffman explained the contents in this report and the course renewal process providers have to engage in to renew courses or let them expire every three years.

Continuing Education Annual Report

Deputy Director Hoffman presented the Continuing Education Annual Report, a copy of which is attached to and made a part of these minutes.

Deputy Director Hoffman explained the contents in the report and the process followed to obtain the annual report.

After review, a motion was made by Ptak and seconded by Freeman to ratify the seven reports. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Deputy Director Hoffman also noted that she had been reviewing the opportunities available for the Instructor Development Workshop (IDW). She explained that the IDW was typically held every two years and traditionally held in Nebraska with a contracted speaker. She indicated that this year there is another option available that she was also currently researching. The Real Estate Educators Association (REEA) is holding its annual conference in Ames, Iowa and holding an IDW the day prior to the conference. That IDW will be taught by a panel of seven nationally regarded instructors. If that is the chosen option, the Commission could charter a bus from Omaha to Iowa and cover the registration fee for the day at roughly the same cost as the traditional IDW model. A survey had recently been sent to the Instructors to request their preference. She indicated that she would have an April report that would recommend one or the other IDW option based upon instructor feedback.

Discussion of Correspondence Study

Deputy Director Hoffman notified the Commissioners that the party who had requested this item be placed on the agenda was inexplicably absent and had not returned her telephone message or email.

After discussion, a motion was made by Ptak and seconded by Freeman to table the discussion of this agenda item until the April meeting. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Pending Sworn Complaints and Investigative Matters

Deputy Director Mayrose presented a summary report of the pending complaints, which included a list of licensees presently under disciplinary action or on appeal. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

The following sworn complaints and investigative matters were presented to the Commission:

Item A Complaint 2012-020 – Jaclyn Marie Lunzmann vs. Theodore Sean Bernard

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Stange and seconded by Freeman that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

Item B Complaint 2012-027 – Steve & Beth Klein vs. Heeran Yi Workman

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Ptak and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

Item C Complaint 2012-033 – Timothy W. Boles vs. Theodore Sean Bernard, Jody Ann Adams, and Deana Guhde

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Rouch and seconded by Ptak that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

Item D Complaint 2012-036 – Rochelle L Dalla vs. Margaret Theresa Maloney

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Avery and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

Item E Complaint 2012-037

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Ptak and seconded by Stange that the complaint be dismissed without prejudice against the Buyer's Agent and the complaint be set for hearing against the Seller's Agent. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

**Complaint 2012-025,
Ronald Rohde vs. Patricia Ann Lunz**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2012-025, Ronald Rohde vs. Patricia Ann Lunz. A copy of said Order is attached to and made a part of these minutes.

There was discussion with regard to changing the misspelling of the Respondent's last name on pages three and four of the Order, Mr. Mayrose indicated that a corrected order with the proper spelling would be substituted.

After discussion, a motion was made by Avery and seconded by Stange to enter into the Order as amended. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Disciplinary Hearings

There were no disciplinary hearings scheduled to be held at the meeting.

Informal Special Appearances

Teresa Lynn Hauck, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Hauck's special appearance; a current letter of explanation from Ms. Hauck; a letter of explanation written in 2006 from Ms. Hauck; character reference letters for Ms. Hauck; Ms. Hauck's criminal history report; and her salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. Hauck was present.

Acting Chairperson Dover reviewed the procedure for informal special appearances.

Ms. Hauck explained the situations regarding her past criminal history.

After discussion, a motion was made by Stange and seconded by Freeman to allow Ms. Hauck to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Hauck must notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions and said broker shall confirm said notification in writing to the Commission prior to the license being placed with said broker. Ms. Hauck must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time for a period of two years. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Shameka Delilah-Denise King, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. King's special appearance; a summary of trial court cases from the State of Nebraska on Ms. King's cases; Ms. King's criminal history report; and her salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. King was present.

Character reference letters for Ms. King were distributed to the Commissioners. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13b1.

Acting Chairperson Dover reviewed the procedure for informal special appearances.

Ms. King explained the situations regarding her past criminal history.

There was discussion regarding the options available to be utilized by the Commission to assure Ms. King had valid vehicle insurance.

After further discussion, a motion was made by Freeman and seconded by Avery to allow Ms. King to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. King would also be required to get a prior commitment from the designated broker to notify the Commission if Ms. King did not have valid vehicle insurance.

Commissioner Avery called the question.

Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, and with Gale not participating or voting, being absent and excused.

They then voted on the pending motion as reviewed. Motion failed with Avery, Freeman and Rouch voting aye, with Dover, Ptak and Stange voting nay and with Gale not participating or voting, being absent and excused.

A motion was made by Stange and seconded by Rouch that Ms. King not be allowed to sit for the salesperson examination for one year, due to the recent violations, and at which time she can reapply with no fee required. Motion failed with Dover and Stange voting aye, and with Avery, Freeman, Ptak and Rouch voting nay, and with Gale not participating or voting, being absent and excused.

After discussion, a motion was made by Freeman and seconded by Avery that Ms. King not be allowed to sit for the salesperson examination at this time and that the application and examination fee paid to the Commission be refunded. Ms. King will be permitted to reapply and is encouraged to supply additional character reference material. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, and Stange voting aye, with Gale not participating or voting, being absent and excused.

Legislative Matters

LB 13 - Director Lemon reported that this bill would continue to be monitored.

LB 72 - Director Lemon reported that the bill had been presented to the Governor on February 11, 2013.

LB 120 – - Director Lemon reported that this bill would continue to be monitored.

LB 289 – - Director Lemon reported that this bill would continue to be monitored.

LB 427 – Director Lemon reported that a Hearing was held on March 15, 2013, in which he testified in a neutral capacity. He indicated that he assisted Senator Howard's office in drafting an amendment to the bill and would continue to monitor this bill.

Kristen Anderson, Nebraska REALTORS® Association indicated that she had also been working with Senator Howard's office regarding LB427. She also noted that during a Nebraska REALTORS® Association License Law Committee meeting, they had discussed removing the notary requirement on the homestead forms and would be requesting the Commission's input to propose a legislative bill for the next Legislative session

No action was necessary with regard to these matters.

Information Matters

Trust Account Examination Evaluation Report - Fourth Quarter 2012

Director Lemon presented the Trust Account Examination Evaluation Report - Fourth Quarter 2012. A copy of said report is attached to and made a part of these minutes.

Director Lemon reviewed some of the comments received and how the situations were handled.

No action was necessary on this report.

Errors and Omissions Loss Report – Fourth Quarter 2012

Director Lemon presented the Errors and Omissions Loss Report – Fourth Quarter 2012. A copy of said exhibit is attached to and made a part of these minutes.

It was the consensus of the Commission that Director Lemon request a claims ratio from Rice Insurance Services Company (RISC) to include with future quarterly reports.

No action was necessary with regard to this matter.

ARELLO Leadership Symposium and Board of Directors Meeting– San Diego, CA – January 13-16, 2013 – Report of Attendees

Director Lemon noted that Deputy Director Hoffman and he attended the ARELLO Leadership Symposium and Board of Directors Meeting.

Each of the Attendees discussed their experiences at the ARELLO Meeting.

No action was necessary on this report.

ARELLO Mid-Year Meeting– Scottsdale, AZ – April 10-13, 2013

Director Lemon asked which Commissioners would be attending the ARELLO Mid-Year Meeting. Commissioner Avery and Stange and Deputy Director Hoffman and he planned on attended.

No action was necessary on this report.

Future Meeting Dates

April 18, 2013- Staybridge Suites, Lincoln
May 16-17, 2013- Staybridge Suites, Lincoln
June 20-21, 2013- Staybridge Suites, Lincoln
August 15-16, 2013- Staybridge Suites, Lincoln
September 27, 2013- Staybridge Suites, Lincoln
October 17-18, 2013- Staybridge Suites, Lincoln
November 21-22, 2013- Staybridge Suites, Lincoln

Recesses and Adjournment

Commissioner Freeman joined the meeting at 9:06 a.m.

At 11:23 a.m., there being no further business to come before the Commission, a motion was made by Freeman and seconded by Ptak that the meeting adjourn. Motion carried with Avery, Dover, Freeman, Ptak, Rouch, Stange voting aye, with Gale not participating or voting, being absent and excused.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the March 21, 2013, meeting of the Nebraska Real Estate Commission were available for inspection on March 25, 2013, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Susan Geschwender, Randall School, Omaha
Marcia L. Weddle, Century 21 Home & Farm, Lincoln
Tom Ackley, Koley Jessen PC LLO, Omaha
JoAnn Grennan, CBSHOME Real Estate, Omaha
Kristen Anderson, Nebraska REALTORS® Association, Lincoln

