

NEBRASKA REAL ESTATE COMMISSION

September 27, 2013

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:04 a.m. on September 27, 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. 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.

Swearing-In Ceremony- Commissioner Andy Alloway

Chairperson Gale conducted a swearing-in ceremony for recently appointed Commissioner Andy Alloway, presented him with his Commission pin, and welcomed him to the Commission.

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. Chairperson Gale 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.

Chairperson Gale 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. Chairperson Gale 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 Avery to adopt the final agenda as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Minutes of August 15, 2013

The minutes of the Commission meeting held on August 15, 2013, were considered.

After review, a motion was made by Rouch and seconded by Stange to approve the minutes as presented. Motion carried with Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye, and with Alloway not voting having not been in attendance at the August Meeting.

Public Comment

Chairperson Gale 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 August

Director Lemon presented the Receipts and Expenditures Report for August. A copy of said report is attached to and made a part of these minutes. Director Lemon noted that an explanation page was included on the report.

The cash fund balance as of August 31, 2013, was \$675,031.93, which compared to a cash fund balance of \$773,832.66 on August 31, 2012.

After discussion, a motion was made by Stange and seconded by Ptak to file the August Receipts and Expenditures Report for audit. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Specialized Registrations

Sub-Divided Land Registration – Reynolds Plantation

Director Lemon presented a specialized registrations report which included the sub-divided land registration for Reynolds Plantation. A copy of said report is attached to and made a part of these minutes.

Time-Share Registration - Amendment for ClubWyndham Access Vacation Ownership Plan (Non-Specific Site)

Director Lemon presented a specialized registrations report which included the registration of amendments to time-share registration for ClubWyndham Access Vacation Ownership Plan (Non-Specific Site). A copy of said report is attached to and made a part of these minutes.

After discussion, a motion was made by Ptak and seconded by Avery to approve the reports as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

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. (It was discovered after the meeting adjourned that the Exhibit for this Agenda Item was incorrect. The month of the report was set forth as "September" when, in fact, the date should have been "August. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Avery and seconded by Rouch to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Examination Report - August

Deputy Director Hoffman presented for ratification the August Examination 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 Rouch to ratify the August Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Examination Passing Roster

Deputy Director Hoffman presented the Examination Passing Roster, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

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.

After review, a motion was made by Ptak and seconded by Freeman to ratify the five reports. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

There was discussion regarding the broker-approved training list that is currently being emailed to all of the designated brokers. It was discussed that while the list was useful to some of the brokers, others were annoyed by the emails. The Commissioners and staff discussed other ways which may be made available for brokers to obtain the list if they desire. Deputy Director Hoffman indicated that she would research those available options and get back to them.

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 Investigative Matter

Deputy Director Mayrose presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Rouch and seconded by Freeman that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Item B Investigative Matter

Deputy Director Mayrose presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Rouch that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Item C Complaint 2012-026 – Commission vs. Gloria Angela Allen

Deputy Director Mayrose indicated that the Respondent in this matter had not renewed her license for 2013. Therefore, the Commission no longer had jurisdiction over this matter.

A motion was made by Ptak and seconded by Avery that Complaint 2012-026 be dismissed without prejudice. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Presentation of Stipulation and Consent Orders

Complaint 2013-025, Commission vs. David Frank Harders

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2013-025, Commission vs. David Frank Harders. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Ptak to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

**Complaint 2013-008, Earnest Kaiman vs. Adrienne Ellen Farnsworth and
Complaint 2013-011, David Richard Schnell vs. Adrienne Ellen Farnsworth**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaints 2013-008, Earnest Kaiman vs. Adrienne Ellen Farnsworth and Complaint 2013-011, David Richard Schnell vs. Adrienne Ellen Farnsworth. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Avery to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

**Complaint 2013-027,
Commission vs. Rebecca S. Rutherford**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2013-027, Commission vs. Rebecca S. Rutherford. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Rouch to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Rule Hearings

**Rule Hearing on Title 299, Chapters 7 and 9 – Amendments relating to approval of
distance education courses for prelicense and continuing education**

At 9:43 a.m. on September 27, Chairperson Gale called to order the public hearing on the proposed amendments to Title 299, Chapters 7 and 9, of the Commissions Rules and Regulations.

Director Lemon presented three exhibits, which included: 1) a copy of the meeting notice, which was published in two newspapers and filed with the Secretary of State, the Executive Board of the Legislative Council, and the Governor's Policy Research Office; 2) a copy of the Lincoln Journal-Star and Omaha Daily Record proofs of publication of the meeting notice; and 3) a copy of the proposed amendments to Title 299, Chapters 7 and 9, in legislative style. Exhibits are attached to and made a part of these minutes.

Director Lemon noted that he had not received any written comments or testimony which had been solicited.

Director Lemon reviewed the proposed amendments set out in Title 299, Chapters 7 and 9.

Chairperson Gale asked if any member of the public wished to speak regarding the proposed amendments.

A motion was made by Freeman and seconded by Avery that the Commission adopt the amendments to Title 299, Chapters 7 and 9, and to direct staff to complete the filing process for the proposed rule changes. Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Chairperson Gale declared the rule hearing concluded at 9:52 a.m.

Disciplinary Hearings

Complaint 2013-020, Commission vs. Robert Lee Pelshaw - Continued

The Hearing regarding Complaint 2013-020, Commission vs. Robert Lee Pelshaw was continued to the November meeting at the Respondent's request.

Informal Special Appearances

Alexandra Michelle Seaton, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Seaton's special appearance; Ms. Seaton'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. Seaton was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Director Lemon distributed a letter of explanation from Ms. Seaton; character reference letters and a summary of criminal activity produced by deputy director mayrose. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 14a1.

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

After discussion, a motion was made by Avery and seconded by Alloway to allow Ms. Seaton to sit for the salesperson examination after making proper application and to have a license issued upon passing.

An amendment was offered by Commissioner Freeman to also require Ms. Seaton to 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. Seaton 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 Alloway, Avery, Freeman, Rouch and Stange voting aye, and with Ptak and Gale voting nay.

Proposed Legislation on Application Procedures

Director Lemon presented an exhibit of the proposed legislation on application procedures. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon reviewed the changes as set forth in the proposed legislation. He also noted that he had solicited a response for the proposed legislation to the Nebraska REALTORS® Association, however, he had not received any comments from them at this time.

Kristen Anderson, with the Nebraska REALTORS® Association, indicated that it had been received, however, they have not yet discussed the proposed changes, but anticipate doing so soon.

A motion was made by Ptak and seconded by Freeman to continue the matter pending receipt of information from the Nebraska REALTORS® Association.

Chairperson Gale offered an amendment to include that the Nebraska REALTORS® Association's comments be received on or before the November meeting. The amendment was accepted by the mover and the second.

Motion carried with Alloway, Avery, Freeman, Ptak, Rouch, Stange and Gale voting aye.

Information Matters

Update on NREC vs. Carl Wuestehube

Director Lemon presented an exhibit of the Order issued by the District Court of Lancaster County, Nebraska to Carl Oswald Wuestehube and Tri-Star Realty, Inc. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that circumstances of the case and the courts final judgment which awarded the Commission fines and attorney fees.

No action was necessary on this report.

ARELLO Annual Conference – September 18-22, 2013 – Seattle, Washington– Report of Attendees

Director Lemon noted that Commissioners Avery and Freeman and Deputy Director Hoffman and he attended the ARELLO Annual Meeting.

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

No action was necessary on this report.

Update on Changes to Criminal Background Search Procedures for Applicants

Director Lemon noted the changes that the Nebraska State Patrol made to the criminal background search procedures for applicants. He noted that the Nebraska State Patrol only provided the Commission a two-week notice prior to changing the procedures which began on September 1.

Deputy Director Hoffman explained the criminal background search procedures prior to September 1st and explained the confusion and inefficiencies with the implemented changes.

Director Lemon also noted that compounding the difficulty in implementation of the procedure changes, the Omaha State Patrol location which used to roll the fingerprints has stopped rolling fingerprints for anything other than gun permit purposes until further notice.

Director Lemon noted that the State Patrol did not consult the State Agencies prior to making the changes, therefore, he wrote a letter of protest to the Nebraska State Patrol and copied the letter to the Governor. At this time he has not heard back from either party.

No action was necessary on this report.

Personnel Matters

Deputy Director Mayrose noted that on September 3, 2013, he gave Director Lemon notice that after 32 years with the Commission, he planned to retire on December 31, 2013.

The Commissioners noted their appreciation of Deputy Director Mayrose's service to the Commission and would like to honor his service at that time with some type of celebration.

There was discussion regarding the State's hiring process and if Deputy Director Mayrose would be able to assist in the training of the new employee. Director Lemon noted that he would keep the Commission informed regarding the hiring and training of the new employee.

No action was necessary at this time.

Future Meeting Dates

October 24-25, 2013- Staybridge Suites, Lincoln
November 21-22, 2013- Staybridge Suites, Lincoln
January 16-17, 2014 – Staybridge Suites, Lincoln
February 20-21, 2014 - Staybridge Suites, Lincoln
March 20-21, 2014 - Staybridge Suites, Lincoln
April 17-18, 2014 - Staybridge Suites, Lincoln
May 22-23, 2014 - Staybridge Suites, Lincoln
June 19-20, 2014 - Staybridge Suites, Lincoln

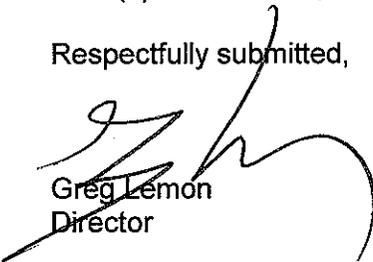
Recesses and Adjournment

At 11:26 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 11:41 a.m.

At 12:08 p.m., there being no further business to come before the Commission, a motion was made by Ptak and seconded by Rouch that the meeting adjourn. Motion carried with Avery, Alloway, Freeman, Ptak, Rouch, Stange and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the September 27, 2013, meeting of the Nebraska Real Estate Commission were available for inspection on October 7, 2013, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Deda Myhre, CBSHOME Real Estate, Omaha
Kristen Anderson, Nebraska REALTORS® Association, Lincoln