

NEBRASKA REAL ESTATE COMMISSION

October 24, 2013

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on October 24, 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 Commissioner Ptak, who was 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. 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 agenda item 6a had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of September 27, 2013

The minutes of the Commission meeting held on September 27, 2013, were considered.

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

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 September

Director Lemon presented the Receipts and Expenditures Report for September. 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 September 30, 2013, was \$669,056.85, which compared to a cash fund balance of \$713,281.59 on September 30, 2012.

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

Specialized Registrations

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

Director Lemon presented a specialized registrations report which included the registration of amendment 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.

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

Examination Report - September

Deputy Director Hoffman presented for ratification the September Examination Report, a copy of which is attached to and made a part of these minutes. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The individual broker statistic for total number failed on page one was reflected as a decimal point rather than a percentage. The Exhibit was corrected for attachment to these minutes.)

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

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

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.

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 Avery and seconded by Stange to ratify the two reports. Motion carried with Alloway, Avery, Freeman, Rouch, Stange and Gale voting aye, with Ptak 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 2013-022

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 Rouch that this complaint be held in abeyance and a new complaint be filed against the Respondent per the Staff recommendation. Motion carried with Alloway, Avery, Freeman, Rouch, Stange and Gale voting aye, and with Ptak not participating or voting, being absent and excused.

After discussion, a motion was made by Avery and seconded by Stange that a complaint be filed against the Respondent's supervising broker for failure to present the brokerage disclosure statement to the seller and for failing to supervise the Respondent.

After further discussion, the pending motion was withdrawn by the mover and second to allow for further investigation.

Item B Complaint 2013-028

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 Freeman and seconded by Rouch that this complaint be set for hearing.

After further discussion, motion failed with Freeman, Rouch and Gale voting aye, with Alloway, Avery and Stange voting nay and with Ptak not participating or voting, being absent and excused.

Item C Complaint 2012-029 – Jeffrey A. Johnson vs. Tracy N. Earnest

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 Rouch that the complaint be dismissed without prejudice. Motion carried with Alloway, Avery, Freeman, Rouch, Stange and Gale voting aye, and with Ptak not participating or voting, being absent and excused.

Item D Complaint 2012-030 – Jeffrey A. Johnson vs. Jennifer Lyn Goaley

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 Rouch that the complaint be dismissed without prejudice. Motion carried with Alloway, Avery, Freeman, Rouch, Stange and Gale voting aye, and with Ptak not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

There were no Stipulation and Consent Orders to present at this meeting.

Disciplinary Hearings

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

Informal Special Appearances

William Paul Schram, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Schram explained the situations regarding his past criminal history.

After discussion, a motion was made by Rouch and seconded by Avery to allow Mr. Schram to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Schram 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. Mr. Schram 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, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused.

2013-2014 Objectives – Quarterly Report

Director Lemon presented an exhibit regarding the 2013-2014 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the changes and improvements for the objectives listed.

It was discussed that Commissioners Avery and Freeman would review the consumer section of the Commission's website and offer suggestions to improve the site.

It was the consensus of the Commission to add hiring a Deputy Director for Enforcement to the current list of objectives.

No action was necessary on this report.

Information Matters

Errors and Omissions Loss Report – Third Quarter 2013

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2013. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

Discussion Item “Coming Soon” Advertising of Real Estate Listings

Director Lemon presented an exhibit explaining advertising property as “coming soon” and the current laws and rules which would relate to such advertising. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained his concerns regarding the potential for rise in potential violations relating to the use of “Coming Soon” advertising.

There was discussion regarding potential violations which fall under the current laws and if this type of advertising is in the best interest of the sellers.

There was discussion regarding publishing an article in the newsletter or sending a letter to designated brokers which focused on the problems rather than explaining the way that can be done correctly.

It was the consensus of the Commission to discuss this matter further at the November meeting.

Future Meeting Dates

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

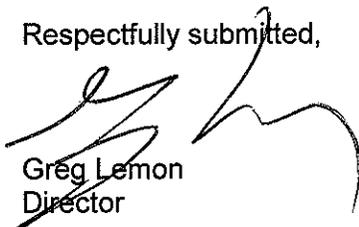
Recesses and Adjournment

At 9:30 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 9:38 a.m.

At 11:55 a.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Stange that the meeting adjourn. Motion carried with Alloway, Avery, Freeman, Rouch, Stange and Gale voting aye, with Ptak 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 October 24, 2013, meeting of the Nebraska Real Estate Commission were available for inspection on **November 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

Kristen Anderson, Nebraska REALTORS® Association, Lincoln
Bryan Fraser, CBSHOME Real Estate, Omaha
James McElwain, Springfield