

NEBRASKA REAL ESTATE COMMISSION

September 26, 2014

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on September 26, 2014, 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 Enforcement Duran Cell, Administrative Assistant Monica Rut and Finance Officer Hillary Pospisil.

Swearing-In Ceremony- Commissioner Ann Dover

John M. Gerrard, United States District Court Justice conducted a swearing-in ceremony for recently appointed Commissioner Ann Dover. Director Lemon presented her with her Commission pin, and Chairperson Gale and the other Commissioners welcomed Commissioner Dover 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 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 items 13b and 16 had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of August 21, 2014

The minutes of the Commission meeting held on August 21, 2014, were considered.

After review, a motion was made by Freeman and seconded by Avery to approve the minutes as presented. Motion carried with Alloway, Avery, Freeman, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused, and with Dover 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, 2014, was \$883,726.21, which compared to a cash fund balance of \$675,031.93 on August 31, 2013.

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

Specialized Registrations

Time-Share Registrations - Amendment for Disney's Polynesian Villas & Bungalows

Director Lemon presented a specialized registrations report which included the registration of amendment to the time-share registration for Disney's Polynesian Villas & Bungalows. A copy of said report is attached to and made a part of these minutes.

A motion was made by Freeman and seconded by Alloway to approve the amendment to the registration as presented. Motion carried with Alloway, Avery, Dover, Freeman, 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

Administrative Assistant Rut 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 Avery and seconded by Stange to ratify issuance of the licenses as set forth in the report. Motion carried with Avery, Alloway, Dover, Freeman, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused.

Examination Report - August

Administrative Assistant Rut presented for ratification the August Examination Report, a copy of which is attached to and made a part of these minutes. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. The individual stats percentage of those passing the national portion of the salesperson examination was inadvertently placed in the number taking the state portion. Also, the Previous 12 Month Examination Statistic for August stated 2013, which in fact should have been 2014. The Exhibit was corrected for attachment to these minutes.)

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

Examination Passing Roster

Administrative Assistant Rut 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 Instructor Approval

Director Lemon 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

Director Lemon 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

Director Lemon 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

Director Lemon 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 Freeman and seconded by Stange to ratify the four reports. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused.

Continuing Education Activity Rejection

Director Lemon presented a Continuing Education Activity Rejection Report, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Cell 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 2013-034

Deputy Director Cell 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 Avery 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, Dover, Freeman, Stange and Gale voting aye, and with Ptak not participating or voting, being absent and excused.

Item B Investigative Matter

Deputy Director Cell 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 Alloway that the Commission file a complaint on its own motion per the Staff Recommendation. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, and with Ptak not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

**Complaint 2014-017,
Commission vs. Lisa Renee Richardson**

Deputy Director Cell presented a Stipulation and Consent Order in the matter Complaint 2014-017, Commission vs. Lisa Renee Richardson. A copy of said Order is attached to and made a part of these minutes.

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

After further discussion, a motion was made by Freeman and seconded by Alloway to decline the proposed Stipulation and Consent Order and that the proposed Order include a one year suspension, with the first fifteen days served and the remainder stayed and served on probation, with a civil fine of one thousand dollars plus three hours of additional continuing education per Staff Recommendation. Motion carried with Alloway, Avery, Dover, Freeman, and Stange voting aye, with Gale voting nay, and with Ptak not participating or voting, being absent and excused.

**Complaint 2014-003,
Daniel and Susana Torres vs. Adam Briley**

Deputy Director Cell presented a Stipulation and Consent Order in the matter Complaint 2014-003, Daniel and Susan Torres vs. Adam Briley. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Stange and seconded by Alloway to decline the proposed Stipulation and Consent Order and that the proposed Order include a three year suspension with the first thirty-days served and the remainder stayed and served on probation, plus a one thousand five hundred dollar civil fine plus three hours of additional continuing education in the area of disclosures. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused.

Disciplinary Hearings

Complaint 2014-003 – Complaint 2014-003 Daniel and Susana Torres vs. Adam Briley

The Hearing regarding Complaint 2014-003, Daniel and Susana Torres vs. Adam Briley was continued pending acceptance of Stipulation and Consent Order.

Informal Special Appearances

Martha Barrera, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Barrera's special appearance; a letter of explanation from Ms. Barrera; court documents regarding her convictions; character reference letters for Ms. Barrera; Ms. Barrera'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. Barrera was present.

Chairperson Gale reviewed the procedure for informal special appearances.

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

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

An Amendment was offered by Freeman to also require Ms. Barrera 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. Barrera 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. The Amendment was approved by the mover and second.

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

Ryan James Van Roy, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Van Roy's special appearance; a letter of explanation from Mr. Van Roy; character reference letters for Mr. Van Roy; Mr. Van Roy'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. Van Roy was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Van Roy explained the situations regarding his past criminal history.

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

Approval Language to End Correspondence Course Exemption to ARELLO Certification (Title 299, Ch. 1 & 7)

Director Lemon presented proposed changes to Title 299, Chapters 1 & 7, to end the "grandfather clause" exemption (allowing correspondence courses without a current ARELLO certification to be offered for credit) effective January 1, 2017. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that the policy change had been approved at a previous meeting and the language of the policy change would need to be approved so that a Rules Hearing can be scheduled.

A motion was made by Freeman and seconded by Alloway to authorize the proposed rule change as set forth and be set for hearing. Motion carried with Alloway, Avery, Dover, Freeman, and Stange voting aye, and with Gale and Ptak not participating or voting, being absent and excused.

Authorize Chairperson to Appoint Evaluation Committee for Licensing Examination RFP

Director Lemon requested that the Commission authorize Chairperson Gale to appoint an evaluation committee for the licensing examination Request For Purchase (RFP).

A motion was made by Alloway and seconded by Freeman to authorize Chairperson Gale to appoint an evaluation committee. Motion carried with Alloway, Avery, Dover, Freeman, and Stange voting aye, with Gale abstained, and with Ptak not participating or voting, being absent and excused.

Commission Policy and Interpretation – Use of Unlicensed Persons by Owners of Real Estate

Director Lemon presented an exhibit regarding proposed changes to the current Commission Policy and Interpretation regarding the use of unlicensed persons by owners of real estate. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the proposed changes to the Commission's Policy and Interpretation - Use of Unlicensed Persons by Owners of Real Estate, was a collaborative effort by Commissioners Freeman and Alloway, and the Metro Omaha Builders Association (MOBA).

There was discussion regarding the proposed changes and the positive and negative impact this may have on builders and other owners of property. There was also discussion regarding the vagueness of the law, therefore, allowing the policy and interpretations to be used to better define the responsibilities of owners and the utilization of unlicensed employees.

A motion was made by Alloway and seconded by Avery to adopt the policy and interpretation of the use of unlicensed employees of owners of real estate as presented. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, with Ptak not participating or voting, being absent and excused.

Information Matters

ARELLO Annual Conference - September 17-21, 2014 - Philadelphia, Pennsylvania – Report of Attendees

Director Lemon noted that Commissioners Avery and Stange attended the ARELLO Annual Conference.

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

No action was necessary on this report.

Agency Disclosure Brochure Update

Director Lemon explained that the Agency Disclosure Brochure was still being reviewed and the revisions would be brought back for the Commission's approval at a Meeting in the near future.

No action was necessary on this report.

Personnel Matters – Replacement of Deputy Director for Education Update

Director Lemon explained that a replacement for the Deputy Director for Education had not been hired yet. He noted that interviews were still being conducted and that while it is important to get the position filled soon, filling it correctly is the priority.

No action was necessary with regard to this matter.

Future Meeting Dates

October 17, 2014 - Staybridge Suites, Lincoln
November 20-21, 2014 - Staybridge Suites, Lincoln
January 22-23, 2015 – Hampton Inn & Suites, Lincoln
February 19-20, 2015 - Staybridge Suites, Lincoln
March 19-20, 2015 - Staybridge Suites, Lincoln
April 23, 2015 – Country Inn & Suites, Lincoln
May 21-22, 2015 - Staybridge Suites, Lincoln

Recesses and Adjournment

At 10:10 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:20 a.m.

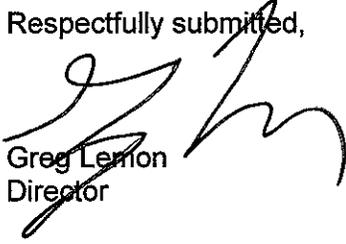
Commissioner Gale was briefly excused from the meeting at 11:13 a.m., and rejoined the meeting at 11:15 a.m.

Commissioner Avery was briefly excused from the meeting at 11:44 a.m., and rejoined the meeting at 11:46 a.m.

At 11:59 a.m., there being no further business to come before the Commission, a motion was made by Avery and seconded by Stange that the meeting adjourn. Motion carried with Avery, Alloway, Dover, Freeman, 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 September 26, 2014, meeting of the Nebraska Real Estate Commission were available for inspection on September 29, 2014, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Trudy Meyer, CBSHOME Real Estate, Omaha
Kristen Anderson, Nebraska REALTORS® Association, Lincoln
Tammy Brookhouser, Nebraska REALTORS® Association, Lincoln
Michael Poskochil, Woods Bros Realty, Lincoln
Thomas E. Dover, Norfolk
Sherry (Tod) Dover, Norfolk
John Gerrard, Lincoln
Robert Dover, Norfolk
Arla Meyer, Lincoln
Gordon Opp, Lincoln