

NEBRASKA REAL ESTATE COMMISSION

October 17, 2014

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Acting Chairperson Ptak convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on October 17, 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 Chairperson Gale, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Enforcement Duran Cell, 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 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 13a and 13b had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Freeman and seconded by Ptak to adopt the final agenda as presented. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Minutes of September 26, 2014

The minutes of the Commission meeting held on September 26, 2014, were considered. (Note: It was discovered at the meeting that there was a typographical error on page three of the Minutes which stated that Deputy Director Hoffman had presented a report, when in fact Director Lemon had presented the report. The Exhibit was corrected.)

After review, a motion was made by Avery and seconded by Alloway to approve the minutes as amended. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, and with Ptak not voting having not been in attendance at the September 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 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, 2014, was \$796,827.61, which compared to a cash fund balance of \$669,056.85 on September 30, 2013.

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

Renewal Report

Director Lemon presented the Renewal Report. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

Specialized Registrations

There were no specialized registrations to be presented at the meeting.

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

Director Lemon 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 Freeman and seconded by Avery to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Examination Report - September

Administrative Assistant Rut presented for ratification the September Examination 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 Ptak to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

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 Stange and seconded by Alloway to ratify the four reports. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Pre-License Education Activity Rejection

Director Lemon presented a Pre-License 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.

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 2014-018 – Tonie & Mercedes Greve vs. Patricia Ann Lunz

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 Avery and seconded by Ptak that the complaint be dismissed without prejudice. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Item B Complaint 2014-021

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 Ptak and seconded by Freeman that the complaint be dismissed without prejudice. The pending motion was withdrawn by the mover and second.

A motion was made by Ptak and seconded by Freeman that further investigation be conducted on this matter and brought before the Commission for further review. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Presentation of Stipulation and Consent Orders

There were no Stipulation and Consent Orders to be presented at the meeting.

Disciplinary Hearings

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

Informal Special Appearances

Katherine Nina Kier, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

A motion was made by Freeman and seconded by Gale to allow Ms. Kier to sit for the salesperson examination and to have a license issued upon passing. Ms. Kier must notify the Commission of any potential transfer of license and salesperson license be reevaluated during an informal special appearance at which time a full disclosure of the past be discussed. Ms. Kier must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time through 2017.

After further discussion, an amendment was offered by Commissioner Stange that should Ms. Kier activate her salesperson license, she would need to reappear before the Commission. The amendment was not accepted by the mover or second.

An amendment was offered by the mover to allow Ms. Kier to activate her real estate salesperson license under PJ Morgan only. Should Ms. Kier's license be activated under the supervision of any other designated broker, she must appear before the Commission. The amendment was not accepted by the second.

An amendment was offered by the second that Ms. Kier forward any further direction from the court, including dismissal, be reported to the Commission. The amendment was accepted by the mover.

After further discussion, the motion was reviewed and clarified to allow Ms. Kier to sit for the salesperson examination and to have a license issued upon passing. Ms. Kier 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. Kier must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time, and any further direction from the court regarding her current deferred charges until December 31, 2017. Motion carried with Alloway, Dover, Freeman, and Gale voting aye, and Avery, Ptak and Stange voting nay.

Aaron Dunlap Moser, Broker Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Stange and seconded by Avery to allow Mr. Moser to sit for the broker examination after making proper application and to have a license issued upon passing. Mr. Moser 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. Moser 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, Ptak, Stange and Gale voting aye.

Interpretation of Status of Three Hour Course in Nebraska License Law Required for Licensees Seeking License Recognition

Director Lemon presented an explanation of why an interpretation of the approval process for the three hour course in Nebraska License Law which is required for those seeking license recognition. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that there is a pre-requisite three-hour course in Nebraska License Law for all applicants holding a license in other states and seeking a Nebraska Real Estate License. This course is only offered in the classroom and correspondence format. Many licensees in other jurisdictions take the correspondence course, however, this format will not be available after 2017 under the Commission's current interpretation of the law. After reviewing the license law, a policy question had arisen, whether this course should be considered to be pre-license education requiring ARELLO certification as distance education when offered in a distance education format for or a separate and distinct type of course requiring only Commission approval, and no ARELLO distance education certification.

After discussion, a motion was made by Alloway and seconded by Freeman to allow for this specific three-hour Nebraska License Law course, when taken for purposes of licensure by recognition for applicants already licensed elsewhere, to not be considered pre-license education, therefore not subject to the ARELLO certification. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

2014-2015 Objectives – Quarterly Report

Director Lemon presented an exhibit regarding the proposed 2014-2015 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the objective as described.

No action was necessary with regard to this matter.

Information Matters

Errors and Omissions Loss Report – Third Quarter 2014

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2014. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon distributed a third quarter summary report of the Nebraska Group Policy Claims Information. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 16a1.

Director Lemon noted that the explanation as provided in 16a1 would be provided in the future with each quarterly report.

No action was necessary with regard to this matter.

ARELLO Investigator Workshop – October 28-30, 2014 - Columbus, OH

Director Lemon explained that to further Deputy Director Cell's education in the investigator position, Deputy Director Cell would be attending the ARELLO Investigator Workshop in Columbus, Ohio on October 28th through October 30th.

No action was necessary on this report.

Future Meeting Dates

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

Chairperson Gale joined the meeting at 9:05 a.m.

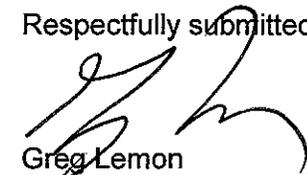
At 10:20 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:30 a.m.

Chairperson Gale was excused from the meeting at 11:30 a.m.

At 11:56 a.m., there being no further business to come before the Commission, a motion was made by Avery and seconded by Freeman that the meeting adjourn. Motion carried with Alloway, Avery, Dover, Freeman, Ptak and Stange voting aye, with 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 17, 2014, meeting of the Nebraska Real Estate Commission were available for inspection on October 30, 2014, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Judy Burford, CBSHOME Real Estate, Omaha

