

NEBRASKA REAL ESTATE COMMISSION

August 20, 2015

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on August 20, 2015, 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 Alane Roubal, Deputy Director for Enforcement Duran Cell, and Deputy Director for Licensing 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 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 Alloway to adopt the final agenda as presented. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Minutes of June 18, 2015

The minutes of the Commission meeting held on June 18, 2015, were considered.

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

Public Comment

Chairperson Gale asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business. Turan Odabasi from HomeServices of Nebraska and Robin Kilgore with the Nebraska State Budget Division were introduced by Director Lemon and welcomed by the Commission.

Receipts and Expenditures Report for June and July

Director Lemon presented the Receipts and Expenditures Reports for June and July. 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.

The cash fund balance as of June 30, 2015, was \$1,107,616.82, which compared to a cash fund balance of \$971,184.28 on June 30, 2014.

The cash fund balance as of July 31, 2015, was \$1,054,304.95, which compared to a cash fund balance of \$910,711.72 on July 31, 2014.

After discussion, a motion was made by Ptak and seconded by Freeman to file the June and July Receipts and Expenditures Reports 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.

Fiscal Year 15-16 Monthly Budget Allocations

Director Lemon presented the monthly budget allocations for Fiscal Year 2015-2016. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary on this report.

Consider 2016 License Fees

Director Lemon presented an exhibit in which the Budget and Finance Subcommittee recommended no increase in fees for 2016. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Stange to make no changes to the Commission's fees at this time. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Specialized Registrations

Time-Share Registration Amendment - Marriott Vacation Club Destinations

Director Lemon presented a specialized registration report which included the registration of amendment to time-share registrations for Marriott Vacation Club Destinations. A copy of said report is attached to and made a part of these minutes.

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

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

Deputy Director 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 Freeman and seconded by Ptak 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 – June and July

Deputy Director Roubal presented for ratification the June and July Examination Reports, copies of which are attached to and made a part of these minutes.

After review, a motion was made by Alloway and seconded by Stange to ratify the June and July Examination Reports for the purpose of issuing licenses. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Examination Passing Rosters

Deputy Director Roubal presented the Examination Passing Rosters for June and July, copies of which are 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

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

Continuing Education Activity Significant Change

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

Broker-Approved Training Recognition

Deputy Director Roubal 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 Avery to ratify the five reports. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Report on Instructor Development Workshop held July 30-31

Deputy Director Roubal presented an evaluation report of the Instructor Development Workshop and a recommendation for the workshop to be held annually. A copy of said report is attached to and made a part of these minutes.

Deputy Director Roubal reported that the Instructor Development Workshop was successful and the presenters received high ratings from the attendees. She noted that the attendees had requested that the workshop be held annually rather than biannually and was seeking approval from the Commission.

Chairman Gale and Director Lemon both commended Deputy Director Roubal on her successful completion of a well received workshop.

Commissioner Ptak suggested periodically conducting the Instructor Development Workshop in the western part of the State rather than always in the east.

After review, a motion was made by Alloway and seconded by Dover to conduct an annual Instructor Development Workshop. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

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 2014-030 – Gary & Patty Payne vs. Shelli Marie Novotny

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

Item B Complaint 2014-032

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 this complaint be held in abeyance and a new complaint be filed against the Respondents on Neb. Rev. Stat. §§81-885.24(29). Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Item C Complaint 2014-036 – Robert Victor vs. Bennie Leo McCombs

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

Item D Complaint 2014-037 – Mike Ralston vs. Keith Eugene Morris

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 Dover that the complaint be set for hearing per Staff recommendation. After discussion, the mover and second withdrew their motion.

After further discussion, a motion made by Freeman second by Ptak to dismiss complaint and send a letter of admonishment to the Respondent.

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

Item E Complaint 2015-006 – Mark Schmitt vs. Fred Joseph Hyde

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 Freeman and seconded by Avery that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Item F Complaint 2014-001 - Gregory A. & Jeannette Yaussi vs. Mark Steven Graham

Deputy Director Cell requested Complaint 2014-001 be dismissed. Deputy Director Cell explained that Complaint 2014-001 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2014-001 in abeyance until the new complaint had been adjudicated. Complaint 2014-019 was the new complaint.

A motion was made by Ptak and seconded by Freeman to dismiss Complaint 2014-001, since the Commission accepted a Stipulation and Consent Order for Complaint 2014-019 at this meeting. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Presentation of Stipulation and Consent Orders

Complaint 2014-019, Commission vs. Janelle Marie Wise

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2014-019, Commission vs. Janelle Marie Wise. 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 Alloway to enter into the Order as presented. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Disciplinary Hearings

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

Informal Special Appearances

Lisa Rae Green, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Green's special appearance; a letter of explanation from Ms. Green; a Dismissal Order from the District Court of Douglas County, Nebraska; an Agreed Settlement and Order on Agreed Settlement from the State of Nebraska Department of Health and Human Services Division of Public Health; character reference letters for Ms. Green; trial court cases from the State of Nebraska Justice System on Ms. Green; Ms. Green criminal history report; and her salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. Green was present.

Commissioner Ptak disclosed that although he did not know Ms. Green, he had a connection to the business where Ms. Green was working. After discussion, it was determined that Commissioner Ptak did not need to recuse himself since he could be fair, act impartially and there was no direct conflict.

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Green explained the situations regarding her past criminal and professional license history.

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

An amendment was suggested by the second to include in the motion that Ms. Green 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. Green 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 accepted by the Mover.

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

2014-2015 Objectives – Final Report

Director Lemon presented an exhibit regarding the 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 changes and current status for the objectives listed.

No action was necessary on this discussion.

Consider 2015-2016 Objectives

Director Lemon presented an exhibit regarding the proposed 2015-2016 Objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained each of the new objectives and those which had been carried over from the 2014-2015 Objectives. He welcomed any additions the Commissioners may have for the proposed objectives.

Commissioner Stange suggested adding the objective to collate the success rates of the schools, suggest improvements to the pre-license education instruction and to evaluate the examination process.

A motion was made by Ptak and seconded by Alloway to approve the Commission Objectives as amended. Motion carried with Alloway, Avery, Dover, Freeman, Ptak, Stange and Gale voting aye.

Property Management Subcommittee Report

Director Lemon presented a draft recommendation to provide oversight and regulation to the practice of property management in Nebraska. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the subcommittee's report defined property management, and recommended that there be a three hour continuing education course in property management be taken by those who perform property management services as defined in the recommendation. He indicated that the rules and regulations would need to be amended should the Commission adopt to implement these recommendations.

After discussion, a motion was made by Alloway and seconded by Stange to adopt the recommendation and have Director Lemon draft the rules and regulation changes and the implementations. Motion carried with Alloway, Dover, Freeman, Ptak, Stange and Gale voting aye and with Avery voting nay.

Coming Soon Listings

Director Lemon presented a draft recommendation regarding "Coming Soon" listings. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the recommendation, if adopted, could be utilized as either a statement or as a policy and interpretation.

There was discussion regarding the trends and concerns of licensees who list properties as "Coming Soon". There was also discussion regarding the licensee's fiduciary duty to the client and the use of "Coming Soon" listing being in the best interest of the public and not being self-serving.

Director Lemon indicated that the Commission could offer the recommendation as a policy and interpretation or use it towards an educational effort.

It was the consensus of the Commission that Director Lemon work with members of the Commission to clarify the language as recommended and propose guidelines at the next Commission meeting.

Adopt David Ptak's Resolution

Director Lemon presented a resolution commemorating service on the Commission by David Ptak. A copy of said resolution is attached to and made a part of these Minutes.

A motion was made by Freeman and seconded by Avery that the resolution for David Ptak be adopted as amended. Motion carried with Alloway, Avery, Dover, Freeman, Stange and Gale voting aye, and with Ptak not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

Information Matters

Trust Account Examination Evaluation Report - Second Quarter 2015

Director Lemon presented the Trust Account Examination Evaluation Report - Second Quarter 2015. 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 – Second Quarter 2015

Director Lemon presented the Errors and Omissions Loss Report – Second Quarter 2015. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

ARELLO Annual Conference – Washington, DC – September 9-13, 2015

Director Lemon asked if any other Commissioners besides Avery and Stange were planning on attending the Conference. No other Commissioners indicated that they planned on attending.

No action was necessary on this report.

Office Relocation Update

Director Lemon indicated that the office relocated on June 29th and 30th. He noted that the licensees have been able to find the new office location and that business is back to normal.

No action was necessary with regard to this matter.

Future Meeting Dates

September 17-18, 2015 – Staybridge Suites, Lincoln

October 15-16, 2015 – Staybridge Suites, Lincoln

November 19-20, 2015 – Staybridge Suites, Lincoln

Recesses and Adjournment

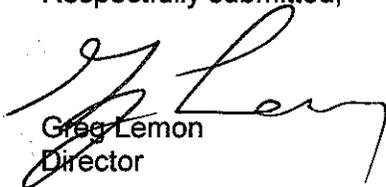
At 10:23 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:42 a.m.

At 12:10 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:20 a.m.

At 12:50 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Ptak that the meeting adjourn. Motion carried with Avery, Alloway, Dover, Freeman, Ptak, Stange and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the August 20, 2015, meeting of the Nebraska Real Estate Commission were available for inspection on August 24, 2015, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

JoAnn Grennan, CBSHOME Real Estate, Omaha

Jeff Hebb, Nebraska REALTORS® Association, Lincoln

Turan Odabasi, HomeServices of Nebraska, Lincoln

Robin Kilgore, State of Nebraska Budget Division, Lincoln

Fred Hyde, Hastings

Barbara Hyde, Hastings

Lisa Ritter, Nebraska REALTORS® Association, Omaha

