

NEBRASKA REAL ESTATE COMMISSION

October 15, 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 October 15, 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, with the exception of Commissioners Avery and Stange, who were absent and excused. 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 Freeman and seconded by Alloway to adopt the final agenda as presented. Motion carried with Alloway, Dover, Freeman and Gale voting aye, with Avery, Stange and Titus not participating or voting, being absent and excused.

Minutes of September 17, 2015

The minutes of the Commission meeting held on September 17, 2015, were considered.

After review, a motion was made by Freeman and seconded by Alloway to approve the minutes as presented. Motion carried with Alloway, Dover, Freeman and Gale voting aye, with Avery, Stange and Titus 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, 2015, was \$951,862.19, which compared to a cash fund balance of \$796,827.61 on September 30, 2014.

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

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

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

Examination Report - September

Deputy Director Roubal 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 Alloway and seconded by Titus to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

Examination Passing Roster

Deputy Director Roubal 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

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.

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

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 2014-034 – Gail & Janet Sohler vs. Mark Francis Stock & Ronald Edwin Stock

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

Item B Complaint 2014-038 – Varla J. Micek vs. Timothy L. O'Connor

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

Item C Complaint 2014-039 – Robert & Waraporn Mahlman vs. Steven Randolph Wiley

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

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

Andrew David Lentz, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Lentz's special appearance; a letter of explanation from Mr. Lentz; character reference letters for Mr. Lentz; trial court cases from the State of Nebraska on Mr. Lentz's cases; Mr. Lentz'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. Lentz was present. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. The name and date which appeared on the trial court cases from the State of Nebraska said "Adam D. Lentz" and "October 23, 2015" when, in fact, the name should have said "Andrew David Lentz" and the date should have been set forth as of "October 13, 2015". Also, the picture which was attached to Mr. Lentz's application was incorrect. The Exhibit was corrected for attachment to these minutes.)

Chairperson Gale reviewed the procedure for informal special appearances.

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

A motion was made by Freeman to allow Mr. Lentz to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Lentz 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. Lentz 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 Motion died for a lack of a second.

After discussion, a motion was made by Alloway and seconded by Titus that Mr. Lentz not be allowed to sit for the salesperson examination at this time. Motion carried with Alloway, Dover, Titus and Gale voting aye, with Freeman voting nay, and with Avery and Stange not participating or voting, being absent and excused.

Anna Le Van Scoyk, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Van Scoyk's special appearance; a letter of explanation from Ms. Van Scoyk's; character reference letters for Ms. Van Scoyk; trial court cases from the State of Nebraska on Ms. Van Scoyk's cases; Ms. Van Scoyk'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. Van Scoyk was present. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. The date which appeared on the trial court cases from the State of Nebraska said "October 23, 2015" when, in fact, the date should have been set forth as of "October 13, 2015". The Exhibit was corrected for attachment to these minutes.)

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Van Scoyk explained the situations regarding her past criminal history.

After discussion, a motion was made by Alloway and seconded by Dover to allow Ms. Van Scoyk to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Van Scoyk 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. Van Scoyk 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 three years. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

Review Criteria for Special Appearances

Director Lemon presented a copy of the current Statutes and Guidelines for Applicants with Criminal Convictions. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that prior discussions have prompted the requested review of the current Statutes and Guidelines for Applicants that have had criminal convictions. He noted that the guidelines reflected in subsection two were developed based on Neb. Rev. Stat. §§81-885.12. Director Lemon also noted that the guidelines do not mention moral turpitude as noted in the Statute.

Chairperson Gale felt that it would be helpful to have moral turpitude added to the guidelines also. There was discussion regarding misdemeanors for certain types of offenses also listed in Neb. Rev. Stat. §§81-885.12, and whether wording should be added to the guidelines.

There was also discussion whether to broaden terms to list specific crimes referred to indirectly in the guidelines.

Commissioner Alloway indicated that violent crimes and financial crimes are two of the offenses which raise applicants to a higher standard and felt that moral turpitude should also be added to the list of offenses. Chairperson Gale felt that the word felony should be added before financial crimes to be more specific.

A motion was made by Freeman and seconded by Titus to add the word "felony" to subsection 1 in the Guidelines. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

There was discussion regarding moral turpitude and the concept of adding it to the list of convictions in subsection 1.

A motion was made by Alloway and seconded by Dover to add "crimes involving moral turpitude" under subsection 1 in the Guidelines. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

A motion was made by Titus and seconded by Freeman to revise section 1 to reflect the list of offenses in §81-885.12(2) rather than the current language. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

Succession Policies in Other Jurisdictions

Director Lemon presented a list of statutes in other jurisdictions relating to succession policies. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that currently Nebraska does not have a formal policy on succession, but the issue does come up from time to time. He indicated that he gathered information from other jurisdictions which currently had succession policies to use as a guide to develop a Nebraska policy.

Chairperson Gale indicated that the information provided was helpful but felt that the Staff or a Subcommittee should develop a proposed policy to the Commission to vote on. Director Lemon indicated that he could bring back sample language for review and different options on how to implement the policy.

There was discussion regarding the requirements of a succession plan and if such implementation would require a rule and regulation change or statute change. Director Lemon indicated that the type of change would depend on the Commission's determination of the policy to be adopted.

A motion was made by Freeman and seconded by Alloway to authorize Director Lemon to propose a succession plan for a designated broker. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange not participating or voting, being absent and excused.

Legislative Matters

Expand Allowable Financial Institutions Which Can Hold Broker Trust Accounts to Include Credit Unions

Director Lemon presented a draft amendment to Neb. Rev. Stat. 81-885.21 regarding allowable financial institutions which can hold broker trust accounts. A copy of said exhibit is attached to and made a part of these minutes. Scott Sullivan and Julia Plucker with the Nebraska Credit Union League were also present to speak on this matter.

Director Lemon explained that the Nebraska Credit Union League representatives had met with him seeking support for the proposed legislation. Director Lemon explained that the proposed amendments would allow broker trust accounts to be opened in credit unions.

Mr. Sullivan explained that due to new federal laws, credit unions now have the authority to accept trust accounts for real estate brokers and would like to have the Commission's support of the proposed legislation. Ms. Plucker indicated that the proposed bill would codify the authority given to credit unions by the federal government and there are Senators identified to sponsor the bill.

There was discussion regarding how the funds were insured, potential changes to federal limits and how that would affect the proposed legislative bill.

Mr. Sullivan indicated that the rights or privileges have already been granted to certain credit unions under federal law, and the proposed legislation would make it clear for real estate licensees that a trust account can be opened in a credit union.

Chairperson Gale indicated that based on the discussion, he believed that conceptually the Commission could support the proposed changes, however, before the Commission formally agrees to support a bill, a final draft of the legislation is typically presented.

Ms. Plucker indicated that the bill to be introduced will be brought to a future meeting for review. Should the Commission decide to support the bill, a letter or verbal support would be requested at that time.

No action was necessary with regard to this matter.

Approve Release of Request for Proposal for License Database

Director Lemon presented an exhibit of the proposed Request for Proposal for License Database. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon summarized the contents of the Request for Proposal for a license database. He indicated that the Legislature approved \$550,000 to be funded for this project and an approval for release of the Request for Proposal would be needed in order to begin the search for a suitable vendor.

There was discussion regarding orphaned systems and keeping the code in escrow in case the system is no longer supported by the chosen vendor, then code would be turned over to the Commission so the system can continue to operate with adequate documentation of the system for the new vendor.

After discussion, a motion was made by Freeman and seconded by Dover to approve the release of the Request for Proposal and to authorize Director Lemon to appoint an evaluation committee. Motion carried with Alloway, Dover, Freeman and Titus voting aye, with Avery, Gale and Stange not participating or voting, being absent and excused.

Information Matters

Errors and Omissions Loss Report – Third Quarter 2015

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

There was discussion regarding the report and various subjects that could be used for educational purposes.

No action was necessary with regard to this matter.

Commission Objectives – Quarterly Report

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

Director Lemon explained that progress is being made on the objectives.

No action was necessary with regard to this matter.

Future Meeting Dates

November 19-20, 2015 – Staybridge Suites, Lincoln
January 21-22, 2016– Staybridge Suites, Lincoln
February 18-19, 2016 – Staybridge Suites, Lincoln
March 17-18 2016 - Staybridge Suites, Lincoln
April 21-22, 2016 - Staybridge Suites, Lincoln
May 19-20, 2016 - Staybridge Suites, Lincoln
June 16-17, 2016 - Staybridge Suites, Lincoln

Recesses and Adjournment

Commissioner Titus joined the meeting at 9:10 a.m.

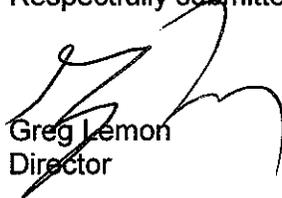
At 10:07 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:22 a.m.

Chairperson Gale was briefly excused from the meeting at 11:46 a.m., and rejoined the meeting at 11:49 a.m.

At 12:02 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Titus that the meeting adjourn. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Avery and Stange 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 15, 2015, meeting of the Nebraska Real Estate Commission were available for inspection on October 21, 2015, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Jeff Hebb, Nebraska REALTORS® Association, Lincoln
Julia Plucker, Nebraska Credit Union League, Omaha
Scott Sullivan, Nebraska Credit Union League, Omaha
Greg Wayman, Foundation – 2 Rooftop, Inc., Omaha
Chad Beisheim, Foundation – 2 Rooftop, Inc., Omaha
Trudy Meyer, CBSHOME Real Estate, Omaha

