

NEBRASKA REAL ESTATE COMMISSION

October 27, 2016

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on October 27, 2016, 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 Titus, who was 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 agenda items 6b and 14a had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of September 29, 2016

The minutes of the Commission meeting held on September 29, 2016, were considered.

After review, a motion was made by Stange and seconded by Freeman to approve the minutes as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus 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. 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, 2016, was \$1,396,113.10, which compared to a cash fund balance of \$951,862.19 on September 30, 2015.

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, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

Specialized Registrations

Time-Share Registration - Amendment for ClubWyndham Access Vacation Ownership Plan

Director Lemon presented a specialized registration report which included the registration of amendment to the time-share registration for ClubWyndham Access Vacation Ownership Plan. A copy of said report is attached to and made a part of these minutes.

Time-Share Registration – Copper Creek Villas and Cabins at Disney’s Wilderness Lodge

Director Lemon presented a specialized registration report which included the time-share registration for Copper Creek Villas and Cabins at Disney's Wilderness Lodge. 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 registration and amendment to the time-share registrations as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus 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 Alloway and seconded by Freeman to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

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 Stange and seconded by Alloway to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

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 Dover to ratify the four reports. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

Approved Property Management Courses

Deputy Director Roubal presented a list of the Approved Property Management Courses, 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 2015-030 – Martin Joseph Giff vs. Eugene J. Graves, Jr.

Deputy Director Cell presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

Item B Complaint 2015-031 – Martin Joseph Giff vs. Anthony Saldi

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 Stange that Complaints 2015-030 and 2015-031 be dismissed without prejudice and a letter of admonishment be sent to the Respondents. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, with Titus voting nay and with Gale abstaining.

Item C Complaint 2015-032 – Jeff & Janet Kalhorn vs. Laurie A. Nice

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

Item D Complaint 2015-033 – Carolyn Simon vs. Deborah Sue Kamrath

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 the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

Item E Complaint 2015-036 – Greg Wayman vs. Michael Anthony Sodoro

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

Item F Complaint 2015-037 – Greg Wayman vs. Shari Ann Thomas

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 Alloway and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus 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

There were no Informal Special Appearances scheduled to be held at the meeting.

10:30 a.m. – Review Draft LB 678 “Teams Bill” Regulations

Director Lemon presented proposed rules and regulations relating to teams. A copy of said exhibit is attached to and made a part of these minutes.

Joint Task Force Recommendations for Proposed Rules and Regulations on Teams

Director Lemon presented recommendations for the proposed rules and regulations relating to teams offered by the Joint Task Force. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the exhibits and proceeded to review the proposed rules and regulations as shown in the exhibit.

The Commission discussed the proposed changes to Title 299, Chapter 2, 003.07. Director Lemon explained the proposed changes. Commissioner Freeman suggested adding language to Title 299, Chapter 2, 003, in part, “All advertising shall be under the direct supervision of the broker, and prominently display the name the broker is conducting business as recorded with the Commission in a way that is conspicuous, discernible and easily identifiable by the public.” After discussion, it was the consensus of the Commission to accept the proposed changes.

After discussion, it was the consensus of the Commission to accept the proposed changes to Title 299, Chapter 2, 003.07a.

The Commission discussed the proposed changes to Title 299, Chapter 2, 003.07b and discussed changing the word similar to same. It was the consensus of the Commission to accept the proposed changes as presented in the meeting exhibit.

The Commission discussed the proposed changes to Title 299, Chapter 2, 003.07c. There was discussion regarding individuals using team or group names and adding provisions to prevent the practice since an individual does not meet the definition of team. It was the consensus of the Commission to accept the proposed changes as presented in the meeting exhibit.

The Commission discussed the proposed changes to Title 299, Chapter 2, 003.08. There was discussion regarding an additional requirement that if a licensee is a member of a group or a team, that the team name is used in all advertising. After further discussion, it was the majority of the Commission that the proposed additional requirement be disregarded and approve the changes as presented.

The Commission discussed the proposed changes to Title 299, Chapter 2, 003.08a. There was discussion regarding individual licensees use of a team or group name to conduct business. It was the majority of the Commission that the proposed changes be amended to require individual licensees to use the name team or group in all advertising and when conducting business. There was also discussion regarding teams being able to use the word "group" group in the team name. It was the consensus of the Commission to allow for "group" to be used in team names.

The Commission then discussed the proposed changes to Title 299, Chapter 2, 003.08b. There was discussion whether team names could include realty or real estate in their team names. Commissioner Stange suggested allowing adding a new subsection to explain that team names may include realty or real estate only if immediately followed by the word team or group, otherwise realty or real estate would not be allowed. It was the consensus of the Commission to amend the proposed changes as suggested by Commissioner Stange.

The Commission then discussed the proposed changes to Title 299, Chapter 2, 014. After discussion, it was the consensus of the Commission to add clarification that group leaders which have their real estate license suspended would only be required to change the team name if it included their own name if the suspension is actually served, and not stayed and served on probation.

The Commission discussed the proposed changes to Title 299, Chapter 7, 001 and 001.03 regarding continuing education requirements. There was discussion regarding the time allowed to meet the education requirement and providing the continuing education in a correspondence format. It was the consensus of the Commission to approve the proposed changes as presented in the meeting exhibit.

The Commission then discussed the disclosure forms and addendums to the disclosure form. It was the Consensus of the Commission that the information on the back of the agency disclosure form be used for team disclosure, including providing specific information that only a limited number of team members, and not all will work for the client (if applicable) and that such disclosure be acknowledged or initialed.

Review Scope of §81-885.24(14) Exclusive Agency and Client Contact

Director Lemon presented a memorandum from Special Assistant Attorneys General providing an opinion on a proposed policy or regulation relating to Neb. Rev. Stat. §81-885.24 (14) Exclusive Agency and Client Contact. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that it was a request at a previous meeting to get an opinion from the Special Assistant Attorneys General appointed to our Agency regarding the scope of Neb. Rev. Stat. §81-885.24(14). The scope was to include other types of agency relationships such as buyer and tenant relationships. He indicated that it was the opinion that a statutory change would be required.

It was the consensus of the Commission that a change of statute was not in the best interest until future research is conducted regarding this matter.

No action was necessary on this report.

Licensure Recognition with Other Real Estate Regulatory Jurisdictions

Deputy Director Rut presented a report providing general information and changes to the major provisions of qualifying for a non-resident license under a license recognition agreement or under established procedures. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Rut explained that the report is provided to Nebraska licensees seeking licensure in other real estate regulatory jurisdictions. While many states acknowledge reciprocity based on license recognition, many jurisdictions still require a Reciprocal Agreement to recognize such reciprocity. She further explained that there had been many changes in the other jurisdictions laws since the list was last updated in 2009 and would continue to amend the list as necessary.

A motion was made by Freeman and seconded by Dover to accept the changes as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

2016-2017 Objectives – Quarterly Report

Director Lemon presented an exhibit regarding the 2016-2017 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress made this quarter on each of the objectives.

No action was necessary on this report.

Review and Approval of Travel to ARELLO Leadership Conference

Director Lemon presented an exhibit regarding the estimated costs for Director Lemon and Deputy Director Rut to attend the ARELLO Leadership Conference in January 2017. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Bourne and seconded by Dover to approve the reimbursement of expenditures for staff who attend the meeting as set forth in the exhibit. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

Nebraska Real Estate Commission Legislation 2017 Relating to Licensure, Maintenance of Trust Accounts, and Advance Payment of Fees

Director Lemon presented an exhibit of the proposed legislation relating to Licensure, Maintenance of Trust Accounts and Advance Payment of Fees. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained the legislative bill as presented. Commissioner Freeman suggested an amendment to include "goods or" in addition to services as shown on lines twenty and twenty-four. It was the consensus of the Commission to include the amended wording.

Director Lemon suggested a proposed change to the law that would allow for an outside vendor to conduct criminal background checks should the Commission choose to seek a third party vendor.

It was the consensus of the Commission that Director Lemon include the proposed change for criminal background checks with the proposed bill to be reviewed at the next meeting.

Information Matters

Budget Memoranda from the Governor

Director Lemon presented a budget memoranda from the Governor relating to spending restraints. A copy of said exhibit is attached to and made a part of these Minutes.

No action was necessary on this report.

Future Meeting Dates

November 17-18, 2016– Staybridge Suites, Lincoln
January 19-20, 2017 – Staybridge Suites, Lincoln
February 16-17, 2017 - Staybridge Suites, Lincoln
March 16-17, 2017- Staybridge Suites, Lincoln
April 20, 2017 - Staybridge Suites, Lincoln

Recesses and Adjournment

Commissioner Titus joined the meeting at 9:06 a.m.

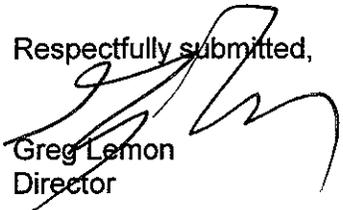
At 10:28 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:42 a.m.

At 12:34 p.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:47 p.m.

At 1:24 p.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, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the October 29, 2016, meeting of the Nebraska Real Estate Commission were available for inspection on November 11, 2016, 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
Amy Duval Carlson, HomeServices, Lincoln
Judy Burford, CBSHome, Omaha
Arla Meyer, Woods Bros, Lincoln