

NEBRASKA REAL ESTATE COMMISSION

September 28, 2017

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 28, 2017, 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 Bourne, 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.

Swearing-In Ceremony- Commissioner Darlene Starman

Chairperson Gale conducted a swearing-in ceremony for recently appointed Commissioner Darlene Starman and welcomed her to the Commission. Director Lemon presented her with her Commission pin.

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 11a, 15a, 15b and 15c 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 Starman to adopt the final agenda as presented. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Minutes of August 17, 2017

The minutes of the Commission meeting held on August 17, 2017, were considered.

After review, a motion was made by Freeman and seconded by Titus to approve the minutes as presented. Motion carried with Alloway, Freeman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused and with Dover and Starman 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, 2017, was \$1,490,460.23, which compared to a cash fund balance of \$1,430,488.50 on August 31, 2016.

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

Specialized Registrations

Time-Share Registration – Westgate Las Vegas Resort

Director Lemon presented a specialized registrations report which included the time-share registrations for Westgate Las Vegas Resort. A copy of said report is attached to and made a part of these minutes.

A motion was made by Freeman and seconded by Dover to approve the amendments to the registration as presented. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

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

Examination Report - August

Deputy Director Roubal presented for ratification the August 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 Freeman to ratify the August Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne 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.

2018 Instructor Development Workshop

Deputy Director Roubal presented an explanation for a speaker approval request as well as information regarding the proposed speaker Karel Murray, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained that in preparation for the 2018 Instructor Development Workshop she was researching and trying to secure a presenter which is often difficult. Deputy Director Roubal indicated that the speaker she was seeking to obtain, Karel Murray, is retiring her travel in 2018 but has agreed to set dates aside to speak at the 2018 Instructor Development Workshop and waive travel costs if the Commission approves the speaking cost.

After discussion, a motion was made by Freeman and seconded by Dover to approve the speaker expenditures for the 2018 Instructor Development Workshop. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

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 Activity Recognition

Deputy Director Roubal presented a Broker-Approved Training Activity 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, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Continuing Education Activity Rejection

Deputy Director Roubal 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.

There was discussion regarding the time frame in which these matters are being investigated and potentially the lack of cooperation from licensees or legal counsel which may prolong the investigation process. There was also discussion to determine if the Commission has the authority to assist in expediting this process. It was the consensus of the Commission that Director Lemon research this issue and provide feedback to the Commission at a future meeting.

No action was necessary on this report.

The following sworn complaints and investigative matters were presented to the Commission:

Item A Complaint 2016-019 – Paul A. Spatz v. Charlotte Leigh Easland

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, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Item B Complaint 2016-020 – Sarah Monteith v. Sara Storovich

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, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Item C Complaints 2016-003 and 2017-011 - Ron Grapes, Grapes Family Farms v. John Michael Polk

Deputy Director Cell explained that Complaint 2016-003 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 2016-003 in abeyance until the new complaint had been adjudicated. Complaint 2017-011 was the new complaint. After further review by counsel it was determined that allegations were not supported.

A motion was made by Alloway and seconded by Freeman that Complaints 2016-003 and 2017-011 be dismissed without prejudice. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Starman abstaining, and with Bourne not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

Complaint 2017-009, Commission vs. Michael Korth

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2017-009, Commission v. Michael Korth. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Alloway to enter into the Order as presented. Motion carried with Alloway, Dover, Freeman, Titus and Gale voting aye, with Starman abstaining, and with Bourne not participating or voting, being absent and excused.

There was discussion regarding the wording of the question relating to criminal convictions on the renewal form.

After discussion, a motion was made by Freeman and seconded by Dover to change the question regarding criminal convictions to include wording to report any criminal convictions not previously reported on the renewal form as soon as practical. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Disciplinary Hearings

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

Informal Special Appearances

Joshua Allen Neill, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Neill's special appearance; a letter of explanation from Mr. Neill; character reference letters for Mr. Neill; Mr. Neill's salesperson application form; trial court cases from the State of Nebraska on Mr. Neill's cases; and Mr. Neill's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Mr. Neill was present.

Chairperson Gale reviewed the procedure for informal special appearances.

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

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

Chairperson Gale offered an amendment to change the wording in the motion from Mr. Neill must also notify the Commission staff of any criminal charge to infraction. The amendment was accepted by the mover and the second.

Director Lemon suggested that a time frame of 5 days be included in the motion on when they need to notify the Commission staff of any criminal charge which is a misdemeanor or felony. The clarification was accepted by the mover and the second.

Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

William Micah Hall, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Hall's special appearance; a letter of explanation from Mr. Hall; character reference letters for Mr. Hall; Mr. Hall's salesperson application form; trial court cases from the State of Nebraska on Mr. Hall's cases; and Mr. Hall's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Mr. Hall was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Hall distributed an additional letter of reference. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13b1.

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

A motion was made by Alloway and seconded by Titus that Mr. Hall not be allowed to sit for the salesperson examination at this time. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Education Steering Committee

Deputy Director Roubal presented a letter of explanation to form an Education Steering Committee. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Roubal reviewed the exhibit and summarized that the formation of an Education Steering Committee would allow a place for Commission Staff and educators to meet on a quarterly basis to discuss and share ongoing topics or those brought to the forefront, and where providers would feel welcomed to offer questions and suggestions.

There was discussion regarding attendees, structure and renaming of the Committee to an Advisory Group. They discussed that an agenda should be pre-published with a summary report provided to the Commission. There was also discussion on membership so that the

variety of education was represented. Director Lemon indicated that the proposal for such Committee would be between formal and informal and would enhance flow of information between Commission and all education providers.

There was discussion regarding the location of where these meetings would occur and if money was available in the budget to accommodate such request. Director Lemon indicated that the meeting location could be accommodated in the current budget.

After further discussion, a motion was made by Freeman and seconded by Alloway that Director Lemon appoints Commission Staff to conduct the Education Advisory Group of no more than 10 formal members and others as invited to meet quarterly. The Commission Staff to provide feedback in summary to the Commission on a quarterly basis. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Consider 2018 Legislation

Military Waiver

Director Lemon presented an exhibit containing the Texas Real Estate Commission's benefits for Veterans, active duty military and their spouses. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon indicated that he had been approached by Senator Carol Blood regarding professional licensing and the possibility of making licensure easier for veterans, as well as active duty military service members and their spouses. He indicated that no legislation was currently drafted but Senator Blood felt the Texas Real Estate Commission (TREC) example was a good example of the type of legislation she was looking to pursue. Director Lemon reviewed the TREC exemptions and provisions.

There was discussion regarding the effects that waiving Commission and third party fees may have on the Commission's budget. They also discussed the differences between the active duty military and spouses who are required to move regularly versus veterans who are not required but choose to move.

After discussion, a motion was made by Freeman and seconded by Alloway to support the concept of waiving the application fee net of any other fixed costs the commission has to pay outside providers for active military and their spouses in Nebraska. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Home Inspectors

Director Lemon explained that the Nebraska REALTORS Association has been reviewing the possibility of regulating or certifying home inspectors and while there are no current proposals, they wanted to provide an update on possible home inspector initiatives for the upcoming legislative session. Scott Vogt and Arla Meyer, with the Nebraska REALTORS Association, were in attendance to speak to this matter.

Ms. Meyer indicated that a task force had been created to research home inspector requirements in other states. She requested input from a governing perspective for home

inspectors and explained that they were looking at third party organizations to provide education, designations and guidelines. She further explained that home inspectors would have a registration with the Commission so that is less burdensome.

Mr. Vogt indicated that home inspectors are often used but the inspectors quality of the inspections differ greatly and felt a license standard for all would be beneficial. Ms. Meyer reported that when surveyed, seventy-two percent want to see some form of licensing. She explained that there are two different third party organizations which provide standards for home inspectors, American Society of Home Inspectors (ASHI) and National Association of Home Inspectors, Inc. (NAHI). Ms. Meyer indicated that only nineteen States currently do not have regulations for home inspectors.

There was discussion regarding the need for legislation for licensing or registration of home inspectors. Ms. Meyer explained that currently there is no state or local government guidelines, standards or code of ethics for home inspectors and was seeking input on a method for providing some oversight to the Home Inspection industry. There was discussion that in the absence of home inspector regulations, licensees can be better educated to use home inspectors that follow the standardizations as provided by third party organizations. It was further discussed that unless there was legislation passed to require licensees to only use home inspectors that follow the standardizations of the third party organizations, then it could not be required from the real estate licensees.

There was discussion regarding the need and various aspects necessary to have regulatory body oversight regarding home inspectors. Director Lemon indicated that he understands the concerns of the Commission and the REALTORS Association. He explained that while the registration of home inspectors may not be ideal, it may be a measure of expediency as opposed to professional licensure with regard to the current political climate regarding professional regulation. There was further discussion regarding the potential harm to the public and that the lack of licensure would not be in the best interest of the public.

There was discussion regarding the potential regulating bodies which this type of registration or licensure may best be placed under, if it would be a self-sustaining State Agency or the potential of conflict of interests if administered by the Real Estate Commission.

There was discussion that if legislation passed to require registration or licensure for home inspectors, it would be appropriate to change the Commission membership so that the home inspectors were also represented. There was also discussion regarding the providing oversight or standards based upon third party organizations and concerns that the state could not require membership to a third party organization, or delegate regulatory power to such an organization.

No action was necessary on this report.

Education Requirements

Director Lemon explained that the Nebraska REALTORS Association has been reviewing the possibility of adding additional education requirements and while there are no current proposals, they wanted to report on the direction they may be going on with this matter. Scott Vogt, with the Nebraska REALTORS Association, was in attendance to speak to this matter.

Mr. Vogt indicated that a task force had been created to research education requirements and professionalism in the state. He explained that there are two possible approaches to these

issues which are either through the Legislature or through the REALTORS Association. He further explained that while no determination has been made, they have looked at other states requirements and felt that increasing hours for elective courses would be beneficial.

There was discussion regarding incremental graduation of licenses, such as apprentice license to master license. There was also discussion regarding the benefits of either pre-license or post-license education requirements.

Mr. Vogt discussed the lack of supervision and training provided to licensees by many designated brokers. There was discussion that not all real estate licensees are REALTOR members, therefore, they are not bound by the code of ethics as required by the REALTORS Association. Chairperson Gale questioned if the Commission should develop with a code of ethics which covers all licensees.

Mr. Vogt indicated that there is a difference in how ethic complaints are handled between the REALTORS Association, the Bar Association and the Commission. There was discussion regarding the self-policing aspect, the time period for disposition and the reports made available to the public and other licensees of the disposition.

Mr. Vogt indicated that defined concepts or recommendations would be brought back for the Commissions review at a future meeting for possible legislation.

No action was necessary on this report.

Consider Amendments to Commissions Policies and Interpretations

Guidelines for Original Applicants with Criminal Convictions

Director Lemon presented an exhibit regarding the proposed changes to the Guidelines for Original Applicants with Criminal Convictions as provided in the Commissions Policies and Interpretations. A copy of said exhibit 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 letters under section 3 on page PI-4 was set forth as "f-j" when, in fact, the letters should have been "a-e". The Exhibit was corrected for attachment to these minutes.)

Director Lemon explained the issues relating to the interlock device and the time frame for reporting any new criminal charge to the Commission office. He indicated that the exhibit shows two different options relating to how these issues may be handled in the future.

A motion was made by Freeman and seconded by Alloway to adopt the Commission Objectives as presented in the second option, making the requirement of an interlock device a criteria that may be considered in reviewing applicants. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Coming Soon Listings

Director Lemon presented an exhibit regarding the proposed changes to the Coming Soon Listings as provided in the Commissions Policies and Interpretations. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon summarized the contents and concept of the exhibit, which incorporated language adopted at a previous commission meeting into the current policy and interpretation on coming soon listings

There was discussion regarding the proposed changes to the Commissions Policies and Interpretations as presented in the exhibit.

After discussion, a motion was made by Freeman and seconded by Titus to approve the changes as presented.

There was further discussion regarding proposed changes which may be done in the future if necessary.

Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, with Bourne not participating or voting, being absent and excused.

Information Matters

ARELLO Annual Conference – September 20-24 – Honolulu, HI – Report of Attendees

Director Lemon noted that Commissioners Dover, Titus and Gale and Deputy Director Rut and he attended the ARELLO Annual Conference.

Each of the Attendees provided a detailed report regarding the conference subject matters and industry and regulatory developments discussed at the ARELLO Meeting.

No action was necessary on this report.

Future Meeting Dates

October 20, 2017 – Country Inn and Suites, Lincoln
November 16-17, 2017 – Staybridge Suites, Lincoln
January 18-19, 2018 - Country Inn and Suites, Lincoln
February 15-16, 2018 – Staybridge Suites, Lincoln
March 15-16, 2018 – Staybridge Suites, Lincoln
April 19-20, 2018 – Staybridge Suites, Lincoln
May 24-25, 2018 – Staybridge Suites, Lincoln
June 21-22, 2018 – Staybridge Suites, Lincoln

Recesses and Adjournment

At 11:27 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 11:42 a.m.

Chairperson Gale was briefly excused from the meeting at 1:09 p.m., and rejoined the meeting at 1:12 p.m.

Commissioner Dover was briefly excused from the meeting at 1:40 p.m., and rejoined the meeting at 1:42 p.m.

Commissioner Starman was briefly excused from the meeting at 1:42 p.m., and rejoined the

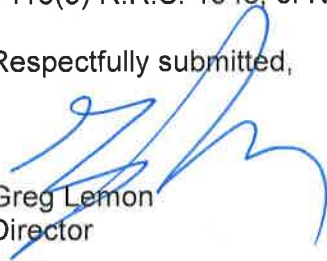
meeting at 1:44 p.m.

Commissioner Alloway was briefly excused from the meeting at 2:03 p.m., and rejoined the meeting at 2:05 p.m.

At 2:11 p.m., there being no further business to come before the Commission, a motion was made by Dover and seconded by Titus that the meeting adjourn. Motion carried with Alloway, Dover, Freeman, Starman, Titus and Gale voting aye, and with Bourne 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 28, 2017, meeting of the Nebraska Real Estate Commission were available for inspection on **October 13**, 2017, 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
Scott Vogt, CBSHome, Omaha
Meri Jo Mentzer, Omaha
Arla Meyer, Nebraska Realty, Lincoln

