

NEBRASKA REAL ESTATE COMMISSION

March 15, 2018

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on March 15, 2018, 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 Alloway and seconded by Dover to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, and Gale voting aye, with Titus not participating or voting, being absent and excused.

Minutes of February 15, 2018

The minutes of the Commission meeting held on February 15, 2018, were considered.

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

Director Lemon presented the Receipts and Expenditures Report for February. 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 February 28, 2018, was \$1,863,557.63, which compared to a cash fund balance of \$1,967,807.17 on February 28, 2017.

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

Specialized Registrations

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

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

A motion was made by Starman and seconded by Alloway to approve the amendment to the registration as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, and Gale voting aye, with Titus 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 Dover to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, and Gale voting aye, with Titus not participating or voting, being absent and excused.

Examination Report - February

Deputy Director Roubal presented for ratification the February 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 Dover to ratify the February Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, 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 Course Significant Change

Deputy Director Roubal presented for ratification the Pre-License Education Course Significant Change 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 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 Titus to ratify the four reports. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

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.

Continuing Education and Broker-Approved Training Annual Report

Deputy Director Roubal presented the Continuing Education and Broker-Approved Training Annual Report, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained the contents in the report and the process followed to obtain the annual report.

Continuing Education Renewal Report

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

Deputy Director Roubal explained the contents in this report and the course renewal process providers have to engage in every three years to renew courses or let them expire.

Broker-Approved Training Expirations

Deputy Director Roubal presented the Broker-Approved Training Expirations, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained the contents in this report and the expiration process providers have to engage in every three years to renew courses or let them expire.

After review, a motion was made by Titus and seconded by Bourne to the three reports as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus 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 2017-004

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 Dover that this complaint be held in abeyance and a new complaint be filed and set for hearing against the Respondent per Staff recommendation. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Item B Complaint 2017-006- Scott & Sandra Wendel vs. Nancy Heim-Berg & Mark T. Wehner

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

Item C Complaint 2017-014 - Molli Thomas vs. Timothy Glenn Maxwell

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 Starman that this complaint be dismissed without prejudice.

An amendment was offered by Commissioner Bourne that a letter of admonishment be sent to the Respondent. After discussion, the amendment was not accepted by the mover and the second.

Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Presentation of Stipulation and Consent Orders

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

Disciplinary Hearings

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

Informal Special Appearances

Richard James Whitmore, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Freeman and seconded by Dover to allow Mr. Whitmore to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Whitmore 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. Whitmore must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years.

An amendment was offered by Commissioner Alloway that Mr. Whitmore continue attending the Alcoholics Anonymous meetings three times a week, and that the sponsor report Mr. Whitmore's attendance to the Commission on a quarterly basis for three years following licensure. The amendment was accepted by the mover and the second.

Motion carried with Alloway, Dover, Freeman, Starman, and Titus voting aye, and with Bourne and Gale voting nay.

Lori Ann Edgerley, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

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

Commissioner Titus offered an amendment that Ms. Edgerley must also notify the Commission staff and the designated broker of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years.

Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Advertising Issues

Broker Prominence Violations

Director Lemon presented an explanation of and issues arising from broker prominence. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the issues arising from the new advertising laws in reference to broker prominence. He indicated that while many licensees have cooperated with any issues regarding advertising, there continues to be violations occurring. Director Lemon indicated that while most of the advertising enforcement issues are enforced through communications with the licensees, he would like to explore the option to file complaints with ongoing violations to promote compliance.

There was discussion regarding the complaint including both the licensee and their designated broker. There was also discussion regarding records being obtained by the Commission office to present a strong case should the complaint be set for hearing.

No action was necessary with regard to this matter.

Advertising Properties with Pending Sales

Director Lemon presented an explanation of and issues arising from advertising properties with pending sales. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the Commission is receiving many questions regarding pending sales and the advertising could be considered deceptive if a pending sale is not being reflected.

Director Lemon reviewed the possible violations and sought input from the Commission members.

There was discussion regarding the possible violations and how the advertising is in the client's best interest and the laws regarding this issue.

No action was necessary with regard to this matter.

Legislative Matters

LB 15 - No new information presented.

LB 36 - No new information presented.

LB 127 – No new information presented.

LB 208 – No new information presented.

LB 299 – Director Lemon reported that this bill has advanced to Select File with amendments. He explained how the bill would, as currently drafted, affect the Commission's procedures for special appearances.

LB 312 – No new information presented.

LB 426 – No new information presented.

LB 683 – No new information presented.

LB 695 – There was discussion regarding the confusion related to this bill and the fact it has not advanced at this time.

LB 736 – No new information presented.

LB 751 – No new information presented.

LB 1060 – No new information presented.

No action was necessary with regard to these matters.

Information Matters

ARELLO 2018 Mid-Year Meeting – April 4-7, 2018 – New Orleans, LA

Director Lemon explained that registration is still open for those interested in attending the Mid-year meeting. He noted that the hotel was booked up but the alternate is very close by. He also noted that Commissioners Bourne, Dover and Freeman had registered to attend the meeting.

No action was necessary on this report.

Trust Account Examination Evaluation Report – 2017

Director Lemon presented the Trust Account Examination Evaluation Report - 2017. A copy of said report is attached to and made a part of these minutes.

Director Lemon explained that this report was previously conducted on a quarterly basis, and upon request, it was approved to be completed on an annual basis. The attached report is the first annual trust account examination evaluation report.

Director Lemon reviewed some of the comments received.

There was discussion regarding the review of electronic records being audited in the future. Director Lemon explained that he would research this request.

No action was necessary on this report.

Future Meeting Dates

April 19-20, 2018 – Staybridge Suites, Lincoln
May 24-25, 2018 – Staybridge Suites, Lincoln
June 21-22, 2018 – Staybridge Suites, Lincoln
August 16-17, 2018 - Staybridge Suites, Lincoln
September 20-21, 2018 – Staybridge Suites, Lincoln
October 18-19, 2018 – Country Inn & Suites, Lincoln
November 15-16, 2018 - Staybridge Suites, Lincoln

Recesses and Adjournment

Commissioner Titus joined the meeting at 9:20 a.m.

At 10:00 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:15 a.m.

Commissioner Starman was briefly excused from the meeting at 11:35 a.m., and rejoined the meeting at 11:37 a.m.

Chairperson Gale was briefly excused from the meeting at 12:29 p.m., and rejoined the meeting at 12:31 p.m.

At 12:32 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Freeman that the meeting adjourn. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the March 15, 2018, meeting of the Nebraska Real Estate Commission were available for inspection on March 20, 2018, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

Greg Lemon
Director

Guests Signing the Guest List

Jim McCord, Nemaha Valley Board, Nebraska City
Mark Leaders, CBSHome, Omaha
Christie Bevington, Nebraska REALTORS® Association, Lincoln
Heidi Cline, Keller Williams, Lincoln
Scott Cline, Keller Williams, Lincoln

