

NEBRASKA REAL ESTATE COMMISSION

February 21, 2019

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on February 21, 2019, 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 Bourne and Dover, 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 Evnen 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 Evnen 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 Evnen 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 Titus to adopt the final agenda as presented. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover not participating or voting, being absent and excused.

Minutes of January 24, 2019

The minutes of the Commission meeting held on January 24, 2019, were considered.

After review, a motion was made by Alloway and seconded by Gehrki to approve the minutes as presented. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover not participating or voting, being absent and excused.

Public Comment

Chairperson Evnen 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 January

Director Lemon presented the Receipts and Expenditures Report for January. 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 January 31, 2019, was \$1,690,311.81, which compared to a cash fund balance of \$1,906,711.46 on January 31, 2018.

After discussion, a motion was made by Starman and seconded by Alloway to file the January Receipts and Expenditures Report for audit. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover 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 Alloway and seconded by Gehrki to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover not participating or voting, being absent and excused.

Examination Report - January

Deputy Director Roubal presented for ratification the January Examination Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Titus and seconded by Gehrki to ratify the January Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover 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 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 Starman and seconded by Titus to ratify the four reports. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Dover 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.

Minutes from Education Advisory Group – First Quarter

Deputy Director Roubal presented the Minutes from the Education Advisory Group-First Quarter, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained that this report had previously been verbal and this will be provided in written format for future review. She briefly highlighted a few of the items discussed during the Education Advisory Group meeting and provided explanation when necessary.

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.

Deputy Director Cell indicated that he had followed up on Complaint 2017-022 currently being

held in abeyance pending the outcome of the civil case. He explained that he was told the civil case could take up to three years before settled and asked for guidance on whether the Commission would like to move forward with the Complaint or continue to hold the Complaint in abeyance.

There was discussion regarding the effect the outcome of the civil case would truly have on the Complaint that was being held in abeyance and any violations against the License Act.

A motion was made by Alloway and seconded by Titus that a new investigative report be presented at the next Commission Meeting for consideration. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover not participating or voting, being absent and excused.

No action was necessary on this report.

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

Item A Complaints 2018-010, 2018-011, 2018-012, 2018-013, 2018-014, and 2018-031

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 Alloway that the complaints be set for hearing.

After further discussion, a motion was made by Gehrki and seconded by Alloway to table this discussion until the next Commission meeting. Motion carried with Alloway, Gehrki, Starman, and Evnen voting aye, with Titus voting nay, and with Bourne and Dover not participating or voting, being absent and excused.

Item B Complaint 2018-020 - Robert Hampton vs. Amy Jo Lemmers

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 Gehrki that the complaint be dismissed without prejudice. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover not participating or voting, being absent and excused.

Item C Complaint 2018-021

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 Gehrki that the Commission amend the public filed complaint per the Staff recommendation and set the amended complaint for hearing. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover not participating or voting, being absent and excused.

Item D Complaint 2018-024 - John Palmtag vs. Jaclyn Marie Lunzman

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 Gehrki and seconded by Alloway that the complaint be dismissed without prejudice. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover not participating or voting, being absent and excused.

Item E Complaint 2018-029 - Angela Rovetto & Larry Williams vs. Janet A. Palmtag

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 Starman and seconded by Gehrki that the complaint be dismissed without prejudice. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover 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 this meeting.

Disciplinary Hearings

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

Informal Special Appearances

Kevin Howard Bowland, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

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

Motion carried with Alloway, Gehrki, Starman, and Titus voting aye, with Evnen voting nay, and with Bourne and Dover not participating or voting, being absent and excused.

Michael Edward Gilbert, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Alloway and seconded by Gehrki to allow Mr. Gilbert to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Gilbert 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. Gilbert 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. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover not participating or voting, being absent and excused.

David Joseph Carrig, Broker Applicant - Reappearance

Director Lemon presented exhibits which included: correspondence regarding Mr. Carrig's special appearance; a letter of explanation from Mr. Carrig; Mr. Carrig's Journal Entry and Order, character reference letters for Mr. Carrig; trial court cases from the State of Nebraska on Mr. Carrig's cases; and information regarding Mr. Carrig's previous special appearance in September 2018. A copy of said exhibit is attached to and made a part of these minutes. Mr. Carrig was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

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

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

Motion failed with Alloway, Gehrki, and Starman voting aye, with Titus and Evnen voting nay, and with Bourne and Dover not participating or voting, being absent and excused.

Deputy Director Roubal presented a letter of request from the Education Advisory Group regarding in-classroom training requirements for continuing education. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Roubal explained that the Education Advisory Group is proposing that six of the twelve continuing education hours required every two years should be mandated as classroom courses. Deputy Director Roubal indicated that the change would require a regulation rather than a statutory change. Deputy Director Roubal noted that the staff would suggest seeking input from the industry before taking any action on this matter. Deputy Director Roubal also noted that online providers do not attend the Education Advisory Group and she does not feel that their input had been properly solicited.

There was discussion regarding other professions which require that a percentage of continuing education be conducted in a classroom. There was also discussion that courses may not be offered in western Nebraska that would accommodate this requirement.

Director Lemon indicated that Commissioners Bourne and Dover represent parts of Nebraska that may not have classroom offered throughout the year and that waiting for their participation in the discussion may be practical as well as obtaining the Nebraska REALTORS Associations input.

Chairperson Evnen asked that Director Lemon should seek input from the Realtors Association and put this on the Agenda for discussion at the next Meeting. He also asked Director Lemon to prepare a draft proposal with corresponding motion as to when this change would be effective.

Director Lemon indicated that this would be a regulation change which he would bring proposed language to at the next meeting and noted that in the past, any changes in continuing education requirements typically begin with the next education period.

No action was necessary with regard to this matter.

Report of Subcommittee on Use of Unlicensed Assistants

Director Lemon presented a report from the Subcommittee regarding the Use of Unlicensed Assistants. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that the report being presented included findings and issues that the Subcommittee wanted to bring to the Commission for discussion. If the issues were adopted by the Commission, these guidelines could be incorporated into the Commission's existing policy and interpretations on the use of unlicensed persons. Commissioner Alloway indicated that as part of the Subcommittee, the concern was regarding the current law and if the law was still valid or if the law needed revision. He also felt that it would be beneficial for all Commission members to be present during this discussion.

After discussion, it was the consensus of the Commission that this Agenda item will be discussed at the next meeting.

Director Lemon reported that during discussions with Zillow, they had indicated the designated

broker's names are now being included on their webpages. He also noted that some advertising problems may exist, but they would likely be due to licensees improperly inputting data in the broker name field, and not due to the pre-set format of the webpages.

No action was necessary with regard to this matter.

Legislative Matters

LB 12 - Director Lemon reported that this bill has been placed on Final Reading and has an emergency clause associated with it. He also noted that the Commission is ready to implement this as soon as this is passed.

LB 55 - Director Lemon reported that this bill has advanced to Enrollment and Review for Engrossment.

LB 130 –Director Lemon reported that this bill is still not out of Committee and there is nothing new to report.

LB 258 –Director Lemon reported that this bill has been placed on Final Reading.

LB 384 – Director Lemon reported that the hearing was held on February 11, 2019, and it has advanced out of Committee to Enrollment and Review.

LB 454 – Director Lemon reported that the hearing was held on February 11, 2019, to eliminate a high school diploma or equivalent requirement for real estate license. The Senator Clements office contacted him regarding an amendment to the existing language to recognize home school students.

No action was necessary with regard to these matters.

Information Matters

ARELLO Mid-Year Meeting – Salt Lake City, Utah – April 10-13, 2019

Director Lemon explained that the deadline for registration is March 11, 2019, and asked which Commissioners were planning to attend the conference.

No action was necessary on this report.

Trust Account Examination Evaluation Report - 2018

Director Lemon presented the Trust Account Examination Evaluation Report - 2018. A copy of said report is attached to and made a part of these minutes.

Director Lemon explained that this report is completed on an annual basis per the request of the Commission. Director Lemon reviewed some of the comments received.

No action was necessary on this report.

Future Meeting Dates

March 21-22, 2019 – Staybridge Suites, Lincoln
April 18-19, 2019 – Staybridge Suites, Lincoln
May 23-24, 2019 – Staybridge Suites, Lincoln
June 20-21, 2019 – Staybridge Suites, Lincoln

Recesses and Adjournment

At 10:19 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:29 a.m.

At 11:40 a.m., there being no further business to come before the Commission, a motion was made by Titus and seconded by Gehrki that the meeting adjourn. Motion carried with Alloway, Gehrki, Starman, Titus and Evnen voting aye, and with Bourne and Dover 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 February 21, 2019, meeting of the Nebraska Real Estate Commission were available for inspection on March 4, 2019, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

James McCord, Nemaha Valley Board of Realtors, Nebraska City
Christie Bevington, Nebraska REALTORS® Association, Lincoln
Charles Chadwick, CNC Realty, Omaha
Tammy Brookhouser, Nebraska REALTORS® Association, Lincoln
Jack Gregg, Sellstate Performance Realty, Lincoln
Debbie Mitchell, Omaha
Kim Wiener, Sellstate Performance Realty, Lincoln
Samuel Lyon, Lincoln

