

NEBRASKA REAL ESTATE COMMISSION

November 17, 2016

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Acting Chairperson Stange convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on November 17, 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 and Chairperson Gale, 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. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, was present for the Khorram Hearing.

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. Acting Chairperson Stange 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.

Acting Chairperson Stange 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. Acting Chairperson Stange 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 Dover to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Freeman, and Stange voting aye, with Titus and Gale not participating or voting, being absent and excused.

Minutes of October 27, 2016

The minutes of the Commission meeting held on October 27, 2016, were considered.

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

Public Comment

Acting Chairperson Stange 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.

Financial Matters

Receipts and Expenditures Report for October

Director Lemon presented the Receipts and Expenditures Report for October. 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 October 31, 2016, was \$1,395,887.44, which compared to a cash fund balance of \$1,061,466.74 on October 31, 2015.

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

Variance Between Renewal Years Report

Director Lemon presented a Variance between Renewal Years Report. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

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

Examination Report - October

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

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 three reports. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, with Titus and Gale 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. (NOTE: It was explained at the meeting that there was a mistake in exhibit 10, and complaint 2015-012 was not continued)

No action was necessary on this report.

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

Item A Complaint 2016-001 – Timothy A Ogle vs. ZZ Ramazani

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 set for hearing on 81-855.24(29) only. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, with Titus and Gale not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

Complaint 2015-021, Greg Wayman vs. Heeran Yi Workman

There was no Stipulation and Consent Order to be presented at this meeting.

Disciplinary Hearings

Complaint 2015-012 – 10:00 a.m. – Complaint 2015-012 – State Of Nebraska, Nebraska Real Estate Commission , ex rel, Tyler Zach vs. Cyrus M. Khorram

A Hearing was held on November 17, at 10:00 a.m., in the matter of Complaint 2015-012, State Of Nebraska, Nebraska Real Estate Commission, ex rel, Tyler Zach vs. Cyrus M. Khorram. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Khorram was present.

After Opening Statements, Counsel Prochaska offered twenty-nine Exhibits. Counsel Prochaska withdrew his offer of two of the exhibits, the other twenty-seven were received by Acting Chairperson Stange. Counsel Prochaska called Duran Cell, Christopher James (CJ) Fritz, Tyler Matthew Zach and Cyrus Khorram as witnesses.

At 11:25 p.m., Acting Chairperson Stange declared a brief recess, and reconvened the Hearing at 11:35 p.m.

At 1:10 p.m., Acting Chairperson Stange declared a recess of the Hearing in order to break for lunch. The Hearing reconvened at 1:50 p.m.

Mr. Khorram offered four exhibits, all of which were received by Acting Chairperson Stange. Mr. Khorram called himself as a witness.

After closing arguments had been presented, Acting Chairperson Stange declared the Hearing concluded and gathered the original exhibits.

The Commission deliberated on the matters adduced at hearing.

A motion was made by Alloway and seconded by Freeman in Complaint 2015-012, that Cyrus M. Khorram violated Neb. Rev. Stat. ' 81-885.24(22) and 81-885.24(29). Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, with Titus and Gale not participating or voting, being absent and excused.

Acting Chairperson Stange opened the past disciplinary action envelope. It showed no prior disciplinary action against either Respondent.

The Commissioners then discussed the penalty to be assessed.

A motion was made by Freeman and seconded by Alloway in Complaint 2015-012, that Cyrus M. Khorram should receive a one year suspension with 30 days served and the remaining stayed and served on probation, plus six hours of additional continuing education and a thousand dollar fine.

Commissioner Bourne offered an amendment to require a longer suspension. The amendment was not accepted by the mover and the second.

An amendment was offered by Commissioner Freeman that the continuing education courses be in the area of License Law and Agency. The amendment was accepted by the second.

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

With the consent of the Respondent, Acting Chairperson Stange directed Counsel Prochaska to prepare the Order.

Acting Chairperson Stange notified the Respondent that the costs incurred for the court reporter and any witness fees would be billed to the Respondent, as provided for in 305 NAC Chapter 4, and that the Respondent would have thirty days from the date of the Order to reimburse the Commission for said costs.

Acting Chairperson Stange announced that all exhibits related to this hearing would be retained in the Commission office.

The Hearing was adjourned at 3:25 p.m.

Informal Special Appearances

Christine Michelle Dozler, Salesperson Applicant

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

Acting Chairperson Stange reviewed the procedure for informal special appearances.

Ms. Dozler distributed additional letters of reference. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13a1.

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

After discussion, a motion was made by Bourne and seconded by Freeman to allow Ms. Dozler to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Dozler must also attend a minimum of two Alcoholics Anonymous meetings each week and a sponsor must report regular attendance to the Commission Office.

Commissioner Alloway offered an amendment that Ms. Dozler 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. Dozler 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 Amendment was accepted by the mover and the second.

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

Tyler Joseph Allis, Salesperson Applicant

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

Acting Chairperson Stange reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Bourne and seconded by Alloway to allow Mr. Allis to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Allis must also attend a minimum of three Alcoholics Anonymous meetings each week and a sponsor must report regular attendance to the Commission Office.

Commissioner Alloway offered an amendment that Mr. Allis 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. Allis 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. Finally, Mr. Allis must attend a minimum of three Alcoholics Anonymous meetings each week for two years and then two times per week for the final year. The Amendment was accepted by the mover and the second.

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

April Elizabeth Becerra, Salesperson Applicant

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

Acting Chairperson Stange reviewed the procedure for informal special appearances.

Ms. Becerra distributed additional letters of reference. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13c1.

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

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

Rule Hearings

Title 299, Chapter 3 – Document Retention Periods for Brokers – 9:30 a.m.

At 9:31 a.m. on November 17, Acting Chairperson Stange called to order the public hearing on the proposed amendments to Title 299, Chapter 3, of the Commission's Rules and Regulations.

Director Lemon presented four exhibits, which included: 1) a copy of the meeting notice, which was published in two newspapers and filed with the Secretary of State, the Executive Board of the Legislative Council, and the Governor's Policy Research Office; 2) a copy of the Lincoln Journal-Star and Omaha Daily Record proofs of publication of the meeting notice; 3) a Fiscal Impact Statement which was filed with the Secretary of State, the Executive Board of the Legislative Council, and the Governor's Policy Research Office and 4) a copy of the proposed amendments to Title 299, Chapters 3, in legislative style. Exhibits are attached to and made a part of these minutes.

Director Lemon noted that he had not received any written comments or testimony which had been solicited in the public notice as well as on the Commission's webpage.

Director Lemon explained that Title 299, Chapter 3.001.01 through 001.05 would further define and clarify that maintenance requirements for records is five years.

Acting Chairperson Stange asked if any member of the public wished to speak regarding the proposed amendments. No members of the public wished to speak.

A motion was made by Freeman and seconded by Dover that the Commission adopt Title 299, Chapter 3, and to direct staff to complete the filing process for the proposed rule changes. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, and with Titus and Gale not participating or voting, being absent and excused.

Acting Chairperson Stange declared the rule hearing concluded at 9:41 a.m.

Review and Approve for Hearing – LB 678 "Team 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.

Director Lemon noted that the Team Bill regulation is being offered for approval which includes the suggested changes from prior meetings. Arla Meyer, with the Nebraska REALTORS Association indicated that based on prior conversations regarding continuing education courses that would meet the requirement for the team regulation, an online course will be made available on January 1, 2017 and would also be available at the spring and fall convention.

There was discussion regarding the time frame in which licensees can receive credit for taking the required team course and if those licensees who took the course prior to the rules and regulations being approved, would receive credit.

Commissioner Stange suggested one change to Title 299, Chapter 2.014 to add forthwith to the second sentence so that it would read "If a team or group member for who the team or group is named has his or her license suspended or revoked, the team must forthwith designate a new name for the team or group..."

There was discussion regarding the chain of command as shown on the disclosure form. It was determined that the form in its final format was not required as part of the rules and regulations and would be further defined at a later meeting.

A motion was made by Freeman and seconded by Alloway that the rules and regulations be adopted as amended.

An amendment was offered that language be added to the rules and regulations that would allow licensees to receive credit if the approved teams course was taken on or after January 1, 2017. The amendment was accepted by the mover and the second. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, and with Titus and Gale not participating or voting, being absent and excused.

Implementation of LB867 – Changes to the Administrative Procedures Act, Commission Policies and Interpretations

Director Lemon presented a cover letter and memorandum from the Attorney General's Office regarding changes in the Administrative Procedures Act. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that this exhibit is being provided due to a legislative bill that passed during last year's session. He indicated that under the new law, with assistance from the Special Assistant Attorney General the Commission's Rule and Regulations, as well as the Policies and Interpretations, each will be reviewed to properly categorize these and either be provided as guidance documents or need to be added as a statute, when necessary. He also noted that the Trust Account Manual was the only guidance document that may be required to be changed that he knows of at this time. He also noted that the review and reporting is due to be completed on or before December 31, 2016. He indicated that after review, he will bring a report back to the Commission.

No action was necessary on this report.

Review and Approve Commission Legislation 2016, Licensing and Criminal Background Check Procedures, Administration of Client Funds and Trust Accounts

Director Lemon presented an exhibit regarding the proposed 2016 Legislation relating to licensing and criminal background check procedures, as well as maintenance or trust accounts and administration of client funds. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that language was added to allow the Commission to select a provide service for fingerprint processing if desired.

There was discussion regarding the Branch Office fees and whether the law should provide a range rather than a fixed fee.

A motion was made by Freeman and seconded by Dover to adopt the proposed bill as presented and authorize Director Lemon to secure legislative support for the proposed bill and to testify to the Legislation on the Commission's behalf. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, and with Titus and Gale not participating or voting, being absent and excused.

Establish Procedures for Appointment of Special Assistant Attorneys General for 2017 and Approval of Contract Rates for Special Assistant Attorney General Services

Director Lemon presented an exhibit of the changed requirements for appointment of Special Assistant Attorneys General. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that due to the changes made by the Attorney General's office, the Commission now has the ability to establish procedures and negotiate fees as they review the Appointment of Special Assistant Attorneys General beginning in 2017.

There was discussion on the research required in order to develop such procedures.

After further discussion, a motion was made by Alloway and seconded by Freeman that the Finance Committee review the rates on an annual basis and bring their recommendation to the Commission.

After further discussion it was determined that the Finance Subcommittee could also make a recommendation for how often the review would be conducted.

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

Information Matters - none

Future Meeting Dates

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
May 25-26, 2017
June 22-23, 2017

Recesses and Adjournment

At 9:45 a.m., Acting Chairperson Stange declared a brief recess, and reconvened the meeting at 10:00 a.m.

At 11:25 a.m., Acting Chairperson Stange declared a brief recess, and reconvened the meeting at 11:35 a.m.

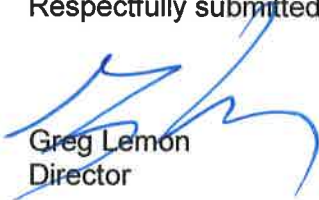
At 1:10 p.m., Acting Chairperson Stange declared a recess for lunch, and reconvened the meeting at 1:50 p.m.

At 3:25 p.m., Acting Chairperson Stange declared a brief recess, and reconvened the meeting at 3:33 p.m.

At 4:44 p.m., there being no further business to come before the Commission, a motion was made by Freeman and seconded by Dover that the meeting adjourn. Motion carried with Alloway, Bourne, Dover, Freeman and Stange voting aye, with Titus and Gale 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 November 17, 2016, meeting of the Nebraska Real Estate Commission were available for inspection on November 30, 2016, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Allison Bentley, Lincoln
Mari Jo Mentzer, Larabee School, Lincoln
Kyle Allen, Thrasher, La Vista
Arla Meyer, Woods Bros, Lincoln
Monica Dempsey, NP Dodge, Omaha