

NEBRASKA REAL ESTATE COMMISSION

February 15, 2018

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on February 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 Freeman and seconded by Dover to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, and Gale voting aye and with Titus not participating or voting, being absent and excused.

Minutes of January 18, 2018

The minutes of the Commission meeting held on January 18, 2018, were considered.

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

Public Comment

Chairperson Gale asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business. No audience member indicated a desire to come forward.

Receipts and Expenditures Report for 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, 2018, was \$1,906,711.46, which compared to a cash fund balance of \$1,994,439.88 on January 31, 2017.

After discussion, a motion was made by Freeman and seconded by Alloway to file the January Receipts and Expenditures Report for audit. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

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, Starman, Titus and Gale voting aye.

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 Freeman and seconded by Alloway to ratify the January 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 Activity Significant Change

Deputy Director Roubal presented for ratification the Pre-License Education Significant Change Report, a copy of which is attached to and made a part of these minutes.

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.

Continuing Education Activity Significant Change

Deputy Director Roubal presented for ratification the Continuing Education Activity Significant Change 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 six 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.

Broker-Approved Training Activity Rejection

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

No action was necessary on this report.

There was discussion regarding the laws and rules and regulations for broker-approved training and the possibility of changing them to allow for activity renewal.

There was also discussion regarding the possibility of implementing disciplinary actions for education providers.

Pending Sworn Complaints and Investigative Matters – January and February

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 2016-023

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 this complaint be set for hearing on the alleged violations in the report against Respondent #1.

Director Lemon suggested that the complaint be held in abeyance pending the renewal of Respondent#1 and should the renewal not occur, the complaint be removed from the list of pending complaints shown in Exhibit 10. The motion was amended by the mover and the second to reflect this suggestion.

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

A motion was made by Freeman and seconded by Bourne that the complaint be dismissed without prejudice against Respondent #2. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Item B Complaint 2017-002 - Terrill Walker vs. Catrina Decelle Houghton

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

After being advised of the results of the investigation and discussion, a motion was made by Alloway and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Item C Complaint 2017-003 - Ivan Adle & Sandra Gladkoff vs. Joey Lynn Porter

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

Item D 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 Freeman and seconded by Titus that this complaint be held in abeyance pending additional investigation as to the alleged violations. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Item E Complaint 2017-005 - Stacy Carlsen vs. Kent Leu Van Briesen

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.

After further discussion an amendment was offered by the second to send a letter of admonishment to the Respondent and the Respondent's Designated Broker. The amendment was approved by the mover.

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

Item F Investigative Matter

Deputy Director Cell presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Starman that the complaint be dismissed without prejudice against the Broker. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

A motion was made by Freeman and seconded by Alloway that the Commission file a complaint on its own motion against the Salesperson and set it for hearing on 81-885.24(29). 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

Stacy Jo Sullivan, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Freeman and seconded by Starman to allow Ms. Sullivan to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Sullivan 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. Sullivan 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 two years. Motion carried with Alloway, Dover, Freeman, Starman, and Titus voting aye, and with Bourne and Gale voting nay.

Database Contract Status Update – Closed Session

At 12:15 p.m., a motion was made by Freeman and seconded by Alloway to go into closed session for discussion of the database contract status. Motion carried with Alloway, Bourne, Freeman, Starman, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Chairperson Gale indicated, prior to the closed session beginning, that the reason for the closed session was to discuss the status of the database contract.

At 12:29 p.m., a motion was made by Freeman and seconded by Bourne to reconvene in open session. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

No action was necessary on this report.

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 explained the bill and reported that this bill was advanced with an amendment. Director Lemon indicated that the Commission had voted to oppose this bill prior to the amendment. He was requesting that the Commissioners review the amendment and provide

the desired position they are seeking for the amended bill.

There was discussion regarding the criteria in the bill relating to criminal convictions which differ from the Commission's current criteria. The Commissioners expressed concerns that the bill does not repeal our laws relating to criminal convictions and would allow applicants and licensees that have misdemeanors to be licensed. The Commissioners discussed the proposed amendment to the bill would limit the Commissioners ability to protect the public.

There was also discussion regarding the bill allowing potential applicants to appear for an informal special appearance prior to applying for a real estate license. It was explained that the Nebraska State Patrol would not allow for the criminal history to be conducted without first having an application on file with the Commission's office.

There was discussion as to the actions the Commission could take to express their opposition to this bill being passed.

A motion was made by Bourne and seconded by Freeman that Director Lemon send a letter of opposition to the Governor as it relates to the criminal history criteria.

An amendment was offered by the second that Director Lemon also send a letter to the speaker of the legislature. The amendment was accepted by the mover.

LB 312 – No new information presented.

LB 426 – No new information presented.

LB 683 – Director Lemon reported that this bill was placed on General file on January 25, 2018. The hearing for this bill was held on January 22, 2018. Director Lemon explained that when the bill was presented the language was presented that the license fee would be waived instead of the application fee which was requested by the Commission. Director Lemon indicated that since the concept of the bill was still the same, he did not feel there was any action necessary by the Commission.

LB 695 – Director Lemon reported that the hearing was held on February 7, 2018. There was discussion regarding the future of real estate contracts being conducted online. Director Lemon indicated that this bill would continue to be monitored but did not feel this bill will be advancing this session.

LB 736 – Director Lemon reported that the hearing was held on January 22, 2018. Director Lemon indicated that he had attended the hearing and opposed the bill as requested by the Commission. He indicated that this bill would continue to be monitored.

LB 751 – Director Lemon reported that this bill was placed on General File on February 2, 2018

LB 1060 – Director Lemon reported that the hearing for this bill is set for February 15, 2018. Director Lemon indicated that the Commission remained neutral regarding this bill. He further explained that should the bill be passed, the disclosure statement would need to be amended to provide for lead based testing.

No action was necessary with regard to these matters.

Information Matters

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

Director Lemon explained that the deadline for registration is March 12, 2018, and asked which Commissioners were planning on attending the conference. Commissioners Bourne, Dover and Freeman indicated that they were planning to attend.

No action was necessary on this report.

Future Meeting Dates

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

Commissioner Titus joined the meeting at 9:05 a.m.

Commissioner Dover was briefly excused from the meeting at 10:25 a.m., and rejoined the meeting at 10:26 a.m.

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

Commissioner Dover was briefly excused from the meeting at 12:14 p.m., and rejoined the meeting at 12:15 p.m.

At 12:30 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Starman 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 February 15, 2018, meeting of the Nebraska Real Estate Commission were available for inspection on February 16, 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
Bob Evnen, Bob Evnen for Secretary of State, Lincoln
Christie Bevington, Nebraska REALTORS® Association, Lincoln
Jeff Hebb, Nebraska REALTORS® Association, Lincoln
Mary Hewitt, Seldin, Omaha
Randy Lenhoff, Seldin, Omaha

