

NEBRASKA REAL ESTATE COMMISSION

February 27, 2020

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on February 27, 2020, 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 Ken Dahlke, and Deputy Director for Licensing Monica Rut.

Notice of Meeting (Adopt Agenda)

Director Lemon presented a public notice thereof relating to this meeting, which is 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 agenda item 11d had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Bourne and seconded by Ritter to adopt the final agenda as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes of January 22, 2020

The minutes of the Commission meeting held on January 22, 2020, were considered.

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

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, 2020, was \$1,846,957.40, which compared to a cash fund balance of \$1,690,311.81 on January 31, 2019.

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

Specialized Registrations

Time-Share Registration - Amendment for Marriott Vacation Club Destinations

Director Lemon presented a specialized registrations report which included the registration of amendment to the time-share registration for Marriott Vacation Club Destinations. A copy of said report is attached to and made a part of these minutes.

A motion was made by Titus and seconded by Ritter to approve the amendment to the registration as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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 Gehrki and seconded by Titus to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen 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 Bourne and seconded by Dover to ratify the January Examination Report for the purpose of issuing licenses. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen 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 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.

Commission-Approved Training Provider/Activity Recognition

Deputy Director Roubal presented a Commission-Approved Training Provider/Activity Recognition Report, a copy of which is attached to and made a part of these minutes.

Commission-Approved Training Activity Recognition

Deputy Director Roubal presented a Commission-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 Gehrki to ratify the six reports. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Report on Instructor Development Workshop held February 12, 2020

Deputy Director Roubal presented the compilation of evaluation results from the attendees of the instructor development workshop, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal reported the interest in attending the instructor development workshop was high and more than fifty people were able to attend. She reported that it went as well as could be anticipated and the positive comments received from the attendees were overwhelmingly positive. Many attendees commented that the courses should be offered as continuing education for those who already have a license, but that would be further discussed with the advisory group.

No action was necessary on this report.

Bilingual Education Discussion

Deputy Director Roubal discussed that at the request of Commissioner Bourne, she had researched those who were offering bilingual education from local providers, National providers that are approved by Nebraska and other jurisdictions through ARELLO. She noted that these providers and jurisdictions included the east coast, Texas and Florida. She reported that overall, no provider was offering bilingual education. The reasoning that providers gave for not offering bilingual education was that there were too many languages to accommodate all of them; different dialects; providers were concerned about the liability; the direct translation may not be accurate; the license examination is only offered in English and there are no bilingual contracts.

Director Lemon indicated that the goal is for the public to be served by real estate agents and the thought was that the agents should be bilingual so that they can provide those translations to the clients. He felt that the Commission could focus on consumer education rather than the applicants to be more helpful and effective.

Commissioner Bourne expressed that Nebraska was still geographically growing and translators are difficult to obtain, especially in smaller communities. She indicated that perhaps the request was premature but appreciated the efforts of the staff for their detailed research. Chairperson Evnen felt that providing consumer materials in other languages is a positive take on this issue and it would help consumers and make sense for home buyers.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Dahlke 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 2019-019 - Farrell F. Ross vs. Janice Eve Rahmig

This investigative matter had been tabled at the previous meeting and brought to this meeting for discussion after further review and report to the Commission the laws relating to filing a lien against a property by a licensee. There was a pending motion, prior to the item being tabled, which required to be reviewed and voted upon.

Deputy Director Dahlke presented the report as requested at the previous meeting to the Commission and, when necessary, answered questions on this matter.

After discussion and review of the pending motion, which was made by Gehrki and seconded by Titus that the complaint be dismissed without prejudice, the motion was confirmed by a new motion made by Titus and seconded by Ritter that the complaint be dismissed without prejudice. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting.

Item B Complaint 2019-034 - Terrel Beckwith vs. John Eric Bock

Deputy Director Dahlke 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 Titus that the complaint be dismissed without prejudice. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Item C Complaint 2019-037 - Susan Roubal vs. Steven Andrew Alloway, Timothy Lynn Bayne & Daniel Thane Jensen

Deputy Director Dahlke 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 Bourne and seconded by Gehrki that the complaint be dismissed without prejudice. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2019-014,
Commission vs. Alex J. Perry**

Deputy Director Dahlke presented a Stipulation and Consent Order in the matter of Complaint 2019-014, Commission vs. Alex J. Perry. A copy of said Order is attached to and made a part of these minutes.

There was discussion that the date of the pending 2018 charges referenced in the order were not listed in the Stipulation and Consent Order presented and should be included.

After discussion, a motion was made by Gehrki and seconded by Starman to enter into the Order. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**Complaint SC2019-003 ,
Commission vs. Bill Bellomy**

Deputy Director Dahlke presented a Stipulation and Consent Order in the matter of Complaint SC2019-003, Commission vs. Bill Bellomy. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Bourne and seconded by Gehrki to decline the proposed Stipulation and Consent Order and propose that the Order be modified to strike item D and instead require the Respondent to appear for an informal special appearance prior to being granted a license. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

**Complaint 2018-039,
Commission vs. Jodie LaNae Weaver**

Deputy Director Dahlke presented a Stipulation and Consent Order in the matter of Complaint 2018-039, Commission vs. Jodie LaNae Weaver. A copy of said Order is attached to and made a part of these minutes.

There was discussion regarding the type of license that Ms. Weaver held in Nebraska as the references were contradicting. Mr. Dahlke indicated that Ms. Weaver held a Nebraska Salespersons license and would make sure the Order accurately reflected her license type.

A motion was made by Starman and seconded by Ritter to enter into the Order as amended. After further discussion, motion failed with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting no.

A motion was made by Titus and seconded by Gehrki to decline the proposed Stipulation and Consent Order and propose that the Order include a forty-five day suspension plus biweekly attendance to Alcoholics Anonymous. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

**Complaint 2019-036,
Commission vs. Steven Lee Taylor**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2019-036, Commission vs. Steven Lee Taylor. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Gehrki and seconded by Starman to decline the proposed Stipulation and Consent Order. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Disciplinary Hearings

Complaint 2018-022 Commission vs. Brian Tyler Littler

The Hearing regarding Complaint 2018-022, Commission vs. Brian Tyler Littler was continued.

Informal Special Appearances

Daniel Forrest Zimmerman, Preliminary Informal Special Appearance

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

Chairperson Evnen reviewed the procedure for preliminary informal special appearances.

Mr. Zimmerman explained the situations regarding his criminal history.

A motion was made by Titus and seconded by Dover that the Director prepare an order outlining findings of fact and conclusions of law that Mr. Zimmerman is not qualified to be approved for licensure under the Nebraska Real Estate License Act based upon the criminal history and information provided at the preliminary special appearance.

Director Lemon asked for clarification of the process to see if the Order needed to be brought back to the next meeting as previously done or if it could be drafted and signed based on the pending motion.

An amendment was offered by Chairperson Evnen to direct Director Lemon to draft the Order and submit it to Chairperson Evnen for review and signature. The amendment was accepted by the mover and the second.

Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Sage Lyle Bailey, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Bailey's explained the situations regarding his criminal history.

After discussion, a motion was made by Gehrki and seconded by Ritter to allow Mr. Bailey to sit for the salesperson examination after making proper application and to have a license issued upon passing. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Breanna Lynn Kelly, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Kelly explained the situations regarding her criminal history.

A motion was made by Ritter and seconded by Titus that Ms. Kelly not be allowed to sit for the salesperson examination at this time. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Rule Hearings

Rule Hearing on Title 299, Chapters 3 and 7 – Change Regulations Related to Trust Account Requirements and Allowable Continuing Education Hours – 10:00 am

At 10:00 a.m. on February 27, Chairperson Evnen called to order the public hearing on the proposed amendments to Title 299, Chapters 3 and 7, of the Commission's Rules and Regulations.

Director Lemon presented three 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; and 3) a copy of the proposed amendments to Title 299, Chapters 3 and 7, 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 through the Commission's website.

Director Lemon explained the changes as provided in the attached exhibits.

Chairperson Evnen asked if any member of the public wished to speak regarding the proposed amendments, no members of the public or industry came forward to testify.

There was discussion regarding the definition of low volume. Director Lemon explained that guidelines would be developed in conjunction with the trust account examiners that better define the requirements.

A motion was made by Ritter and seconded by Gehrki that the Commission adopt Title 299, Chapters 3 and 7, and to direct staff to complete the filing process for the proposed rule changes. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Chairperson Evnen declared the rule hearing concluded at 10:10 a.m.

Legislative Matters

LB 929 - Director Lemon reported that the bill had been placed on General File with the amendment as discussed by the Commission.

LB 1020 - Director Lemon reported that a Hearing was held on January 29 and the Commission remained neutral.

LB 1108 –Director Lemon reported that this bill would Change The Provisions Relating To Property Under The Uniform Disposition Of Unclaimed Property Act, The School Employees Retirement Act, And The Uniform Residential Landlord And Tenant Act. He explained that the Hearing was held on February 24 and the bill is still in Committee. Director Lemon indicated that he would disseminate information to the licensees should this bill pass.

LB 1187 – Director Lemon reported that this bill would Change Provisions Relating To The

Occupational Board Reform Act. Director Lemon noted that he attended the Hearing which was held on February 13 and explained how this bill would affect the reciprocity licensing requirements of the Commission.

After discussion, a motion was made by Gehrki and seconded by Bourne to oppose this bill and send a letter of opposition from the Commission. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Information Matters

Trust Account Examination Evaluation Report - 2019

Director Lemon presented the Trust Account Examination Evaluation Report - 2019. A copy of said report is attached to and made a part of these minutes.

Director Lemon noted the good comments received.

No action was necessary on this report.

ARELLO Mid-Year Meeting – Savannah, GA - April 29-May 2, 2020 -

Director Lemon explained that the deadline for the hotel reservations is April 6, 2020, and asked which Commissioners were planning on attending the conference.

No action was necessary on this report.

Future Meeting Dates

March 19-20, 2020 - Staybridge Suites, Lincoln

April 16-17, 2020 - Staybridge Suites, Lincoln

May 21-22, 2020 - Staybridge Suites, Lincoln

June 18-19, 2020 - Staybridge Suites, Lincoln

Recesses and Adjournment

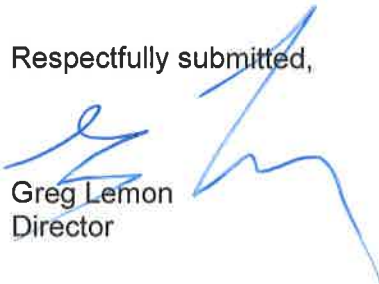
At 9:01 a.m., Commissioner Titus joined the meeting.

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

At 11:30 a.m., there being no further business to come before the Commission, the Chairperson declared the meeting adjourned.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the February 27, 2020, meeting of the Nebraska Real Estate Commission were available for inspection on March 3, 2020, 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

Arla Meyer, Nebraska Realty, Lincoln

Tammy Brookhouser, Nebraska REALTORS® Association, Lincoln

Christie Bevington, Nebraska REALTORS® Association, Lincoln

Kim Zwiener, Sellstate Empire Realty, Lincoln