

NEBRASKA REAL ESTATE COMMISSION

June 16, 2022

Country Inn & Suites

Omaha Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on June 16, 2022, in the Omaha Room of the Country Inn & Suites, located at 5353 N 27th Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Enforcement Samantha Lowery, 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 southeast corner of the meeting room by the south 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 20b had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of May 19, 2022

The minutes of the Commission meeting held on May 19, 2022, were considered.

After review, a motion was made by Gehrki and seconded by Ritter to approve the minutes as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman and Evnen voting aye, and with Post not voting having not been in attendance at the May Meeting.

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 May

Director Lemon presented the Receipts and Expenditures Report for May. 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 May 31, 2022, was \$1,632,010.21, which compared to a cash fund balance of \$1,386,998.94 on May 31, 2021.

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

Specialized Registrations

Time-Share Registration - Amendment for Orange Lake Land Trust Plan

Director Lemon presented a specialized registrations report which included the registration of amendment to the time-share registration for Orange Lake Land Trust Plan. A copy of said report is attached to and made a part of these minutes.

A motion was made by Ritter and seconded by Starman to approve the amendment to the registration as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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 Starman and seconded by Dohse to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

License Statistic Report for May

Deputy Director Rut presented the License Statistic Report for the month of May, a copy of which is attached to and made a part of these minutes.

Deputy Director Rut noted that the report would be provided to the Commission on a monthly basis.

No action was necessary on this report.

Examination Report - May

Deputy Director Rut presented for ratification the May 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 Dohse to ratify the May Examination Report for the purpose of issuing licenses. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Examination Passing Roster

Deputy Director Rut 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 Provider/Activity Approval

Director Lemon presented for ratification the Continuing Education Provider/Activity Approval Report, a copy of which is attached to and made a part of these minutes.

Continuing Education Activity Approval

Director Lemon 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

Director Lemon presented for ratification the Continuing Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

Commission-Approved Training Provider/Activity Recognition

Director Lemon 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 four reports. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Bell and Evnen voting aye.

Pending Sworn Complaints and Investigative Matters

Deputy Director Lowery 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 discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The date of complaint 2022-012 reflected an open date of 2012 when in fact the date should have been 2022. There were a few locations on the report where the word "received" had been misspelled. The Exhibit was corrected for attachment to these minutes.)

No action was necessary on this report.

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

Item A Investigative Report

Deputy Director Lowery presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Gehrki and seconded by Dohse that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Bell, Bourne, Dohse, Gehrki, Ritter, Starman, and Evnen voting aye.

Item B Complaint 2021-007

Deputy Director Lowery 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 Dohse and seconded by Starman that this complaint be held in abeyance pending receipt of further investigation and for staff to provide the Commissioners with a redacted copy of the court order to review. Motion carried with Bell, Bourne, Dohse, Gehrki, Ritter, Starman, and Evnen voting aye, and with Post not participating or voting, having recused herself, thereby nullifying any potential conflict of interest.

Item C Complaint 2021-005

Deputy Director Lowery 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 Dohse and seconded by Bourne that the complaint be set for hearing. Motion carried with Bell, Bourne, Dohse, Gehrki, Ritter, Starman, and Evnen voting aye.

Item D Complaint 2022-001

Deputy Director Lowery 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 Ritter and seconded by Dohse that the complaint be set for hearing. Motion carried with Bell, Bourne, Dohse, Gehrki, Ritter, Starman, and Evnen 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

There were no informal special appearances scheduled to be held at the meeting.

Broker Qualification Review

Carl Joseph Troia, III

Director Lemon presented exhibits which included: correspondence regarding Mr. Troia's Broker Qualification Review Hearing; a letter of explanation from Mr. Troia, a list of Mr. Troia's real estate experience; character reference letters for Mr. Troia, Mr. Troia's Broker Qualification Review form, and Mr. Troia's broker application form. A copy of said exhibit is attached to and made a part of these minutes. Mr. Troia was present.

Chairperson Evnen reviewed the procedure for Broker Qualification Review Hearings.

Mr. Troia explained the situation regarding the request for the waiver.

After discussion, a motion was made by Ritter and seconded by Post that the Director prepare an order of the Commission that the applicant has supplied sufficient relevant experience to qualify under the Hardship provision. Motion carried with Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye and with Bourne voting nay.

Sharon Rose Maldonado-Soto

Director Lemon presented exhibits which included: correspondence regarding Ms. Maldonado-Soto's Broker Qualification Review Hearing; a letter of explanation from Ms. Maldonado-Soto's, character reference letters for Ms. Maldonado-Soto, Ms. Maldonado-Soto's Broker Qualification Review form, and Ms. Maldonado-Soto's broker application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. Maldonado-Soto was present.

Chairperson Evnen reviewed the procedure for Broker Qualification Review Hearings.

Ms. Maldonado-Soto explained the situation regarding the request for the waiver.

After discussion, a motion was made by Ritter and seconded by Gehrki that the Director prepare an order of the Commission that the applicant has supplied sufficient relevant experience to qualify under the Hardship provision. Motion carried with Gehrki, Post, Ritter, and Evnen voting aye, and with Bourne, Dohse, and Starman voting nay.

Danielle M. Dring-Bueno

Director Lemon presented exhibits which included: correspondence regarding Ms. Dring-Bueno's Broker Qualification Review Hearing; a letter of explanation from Ms. Dring-Bueno, Ms. Dring-Bueno's resume; character reference letters for Ms. Dring-Bueno, Ms. Dring-Bueno's Broker Qualification Review form, and Ms. Dring-Bueno's broker application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. Dring-Bueno was present.

Chairperson Evnen reviewed the procedure for Broker Review Hearings.

Ms. Dring-Bueno distributed additional letters of reference. A copy of said exhibit is attached to

and made a part of these minutes, denoted as exhibit 14c1.

Ms. Dring-Bueno explained the situation regarding the request for the review.

After discussion, a motion was made by Ritter and seconded by Gehrki that the Director prepare an order of the Commission that the applicant has supplied sufficient relevant experience to qualify under the Hardship provision. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

2021-2022 Objectives – Final Report

Director Lemon presented an exhibit regarding the 2021-2022 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained accomplishments made on each of the objectives.

No action was necessary on this report

Consider 2022-2023 Objectives

Director Lemon presented an exhibit regarding the proposed 2022-2023 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained each of the objectives. After discussion, there were a few suggested changes to the proposed objectives. It was suggested that in objective three, there be a zoom meeting regarding online services with the brokers and their staff due to some concerns regarding user usability. It was suggested in objective eight, online testing be explored since many other states are using this technology. It was further suggested that a new objective be added as number ten, that the Education Advisory Group conduct quarterly meetings and that one Commissioner attend when possible.

A motion was made by Starman and seconded by Dohse to adopt the Commission Objectives as amended. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

This agenda item was revisited during the meeting to discuss escalating clauses and determine if the Commission should add this as a Commission objective.

Commissioner Bourne distributed an example of an escalating clause drafted by a local attorney of what is being used as an escalating clause. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 16a.

Commissioner Bourne explained the confusion regarding the implementation of these clauses, the caps and how they are being used and how many of the contracts differ.

There was discussion regarding the other clauses Commissioners have seen and the various ways the licensees have handled these situations. It was the consensus of the Commission to publish an article regarding this subject in the Commission Comment newsletter.

Consider Procedures Implementation of LB892-Wholesaling Under the Nebraska Real Estate Licensing Act

Director Lemon presented an exhibit regarding the proposed procedures for implementation of LB892-Wholesaling Under the Nebraska Real Estate Licensing Act. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon distributed a page of definitions as it would relate to the proposed policy and interpretation provided as part of this exhibit. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 17a.

Director Lemon reviewed the exhibits and indicated that by regulation the relationship was established which places the wholesaler as a seller's agent. He explained the difference between sales and wholesaling and the licensee's fiduciary duties.

There was discussion that the law as written did not currently protect the title holder of the property. There was discussion regarding educating the seller and disclosure to the seller by the licensee to protect the title owner.

Director Lemon explained that based on legal advice received, since the wholesaler is not the principal property owner, they need to have a real estate license. There were discussion regarding the various contracts that wholesalers are using which may not be in the best interest of the public.

It was the consensus of the Commission to create a subcommittee and work with the Nebraska REALTORS® Association for additional information and perspective.

Broker Hardship Review Proposed Commission Policies and Interpretation

Director Lemon presented an exhibit regarding the proposed policy and interpretation for the Broker Hardship Provision. A copy of said exhibit is attached to and made a part of these minutes.

Chairperson Evnen explained the current process regarding the equivalent experience and the law that will be changing in July 2022. He explained that the review of this new process would provide applicants a better explanation, as well as staff, when processing applications.

Director Lemon indicated that he was anticipating more broker hardship review requests after the implementation of this bill in July 2022. He explained that the intent of the hardship was for the public so that ongoing services could be provided should there be a hardship. He reviewed the policy and interpretation with the Commissioners.

Chairperson Evnen suggested adding a fourth item to this list that simply said "Qualifications of the applicant" that would allow discretion of the Commission.

A motion was made by Dohse and seconded by Gehrki to adopt the Policy and Interpretation as amended. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Personnel Matter – Closed Session

At 11:47 p.m., a motion was made by Gehrki and seconded by Dohse to go into closed session for discussion of personnel matters. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Chairperson Evnen indicated, prior to the closed session beginning, that the reason for the closed session was to discuss personnel matters.

At 12:18 p.m., a motion was made by Gehrki and seconded by Ritter to reconvene in open session. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

After reconvening in open, public session, a motion was made by Bourne and seconded by Ritter to increase Director Lemon's annual salary by three percent beginning July 1, 2022. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Chairperson Evnen also reflected the Commission's appreciation of the service and congratulate the staff assembled to do the Commission duties.

Information Matters

ARELLO Annual Meeting – August 29-September 2, 2022 - Nashville, TN

Director Lemon explained that the deadline for registration is July 25, 2022, and asked which Commissioners were planning on attending the conference.

No action was necessary on this report.

Instructor Development Workshop – July 14, 2022

Director Lemon explained that the Instructor Development Workshop would be provided via ZOOM and held on July 14, 2022. He explained that the presenter/instructor for this event would be Cheryl Knowlton would be focusing on GAPE (Generally Accepted Principles of Education) principles and other aspects of engaging and educating real estate learners online and in the classroom. Focus on gape principals. Through zoom and web based synchronize education – offered free.

Director Lemon indicated that a mailing was sent to all pre-license instructors and continuing education providers.

No action was necessary on this report.

Future Meeting Dates

August 18-19, 2022 - TBA
September 15-16, 2022 - TBA
October 20-21, 2022 - TBA
November 17-18, 2022 - TBA

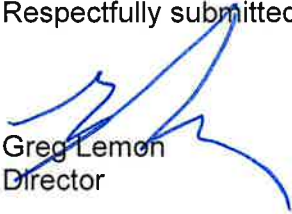
Recesses and Adjournment

At 9:50 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 9:59 a.m.

At 12:25 p.m., there being no further business to come before the Commission, a motion was made by Starman and seconded by Gehrki that the meeting adjourn. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Bell and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the June 16, 2022, meeting of the Nebraska Real Estate Commission were available for inspection on June 22, 2022, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Deb Airola, Coldwell Banker NHS RE, Omaha
Charles Chadwick, CNC Realty, Omaha
Ryan Swinney, Nebraska REALTORS® Association, Lincoln
Leighun Brabec, Larabee School of Real Estate, Lincoln
Kim Zwiener, Sellstate, Lincoln
Brad Fricke, Re/Max Results, Omaha

