

NEBRASKA REAL ESTATE COMMISSION

May 16, 2024

Telegraph Lofts East Center

4th Floor Conference Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on May 16, 2024, in the 4th Floor Conference Room of the Telegraph Lofts East Center, located at 200 South 21st St in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Commissioner Ritter, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Education Melissa Belcastro, 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 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 Dohse and seconded by Gehrki to adopt the final agenda as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Minutes of April 25-26, 2024

The minutes of the Commission meeting held on April 25-26, 2024, were considered.

After review, a motion was made by Dohse and seconded by Gehrki to approve the minutes as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter 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 April

Director Lemon presented the Receipts and Expenditures Report for April. 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 April 30, 2024, was \$1,720,638.81, which compared to a cash fund balance of \$1,719,206.31 on April 30, 2023.

After discussion, a motion was made by Peter and seconded by Burleigh to file the April Receipts and Expenditures Report for audit. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter 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 Gehrki and seconded by Dohse to ratify issuance of the licenses as set forth in the report. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

License Statistic Report for March

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

No action was necessary on this report.

Examination Report - April

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

There was discussion regarding the passing rate and that the Nebraska License Law course has been updated and will be distributed to various instructors to review.

After review, a motion was made by Dohse and seconded by Peter to ratify the April Examination Report for the purpose of issuing licenses. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Examination Passing Rosters

Deputy Director Belcastro presented the Examination Passing Rosters, 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 Belcastro 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 Belcastro 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 Belcastro 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

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

There was a discussion regarding the availability of property management courses and that the course availability be reviewed by Commission Staff.

After review, a motion was made by Dohse and seconded by Gehrki to ratify the four reports. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Instructor Development Workshop

Deputy Director Belcastro presented an exhibit regarding the proposed Instructor Development Workshop, a copy of which is attached to and made a part of these minutes.

Deputy Director Belcastro noted that this Workshop would be on July 17, 2024. Theresa Barnabei, with REEA would be educating Continuing Education and Pre-license Education instructors with tools and strategies for best delivery of education courses.

Deputy Director Belcastro indicated that a mailing would be sent to all pre-license instructors and continuing education providers and potential instructors would be welcome as well.

A motion was made by Burleigh and seconded by Dohse to approve the expenditures for the Instructor Development Workshop and to provide the Workshop free of charge. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating

or voting, being absent and excused.

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.

No action was necessary on this report.

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

Item A Complaint 2023-019

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 Gehrki and seconded by Dohse to file an amended complaint in order to ensure the facts and issues involved as identified in the investigation are adequately set forth and set the matter for hearing. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Item B Investigative Matter

Deputy Director Lowery presented an investigative matter to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Dohse and seconded by Gehrki to file an amended complaint in order to ensure the facts and issues involved as identified in the investigation are adequately set forth and set the matter for hearing.

There was discussion regarding the statutes and proposed future changes that may be necessary.

Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Item C Complaint 2023-018- Sandra and David Andres v. Charli R. Hartshorn

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 Peter and seconded by Burleigh that the complaint be dismissed without prejudice. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Item D Investigative Matter

Deputy Director Lowery presented an investigative matter to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Dohse and seconded by Gehrki to file an amended complaint in order to ensure the facts and issues involved as identified in the investigation are adequately set forth and set the matter for hearing. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

**Complaint 2024-014,
Commission vs. Dana Michael Terrell**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2024-014, Commission vs. Dana Michael Terrell. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Dohse and seconded by Gehrki to enter into the Order as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Disciplinary Hearings

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

Informal Special Appearances

Jacob Allen Volkmann, Salesperson Applicant - Reappearance

Director Lemon presented exhibits which included: correspondence regarding Mr. Volkmann special appearance; a letter of explanation from Volkmann; character reference letters for Volkmann; Volkmann's salesperson application form; trial court cases from the State of Nebraska on Mr. Volkmann's cases; Mr. Volkmann's criminal history report; and information regarding Mr. Volkmann's previous special appearances in April 2022. A copy of said exhibit is attached to and made a part of these minutes. Mr. Volkmann was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Volkmann explained the situations regarding his criminal history.

After discussion, a motion was made by Dohse and seconded by Gehrki to allow Mr. Volkmann to sit for the salesperson examination after making proper application and to have a license issued upon passing. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Consider Two-Year Errors and Omissions Insurance Renewals

Director Lemon indicated that at the direction of the Commission, he had explored the opportunity to provide two-year errors and omissions insurance renewals if the legislative bill regarding errors and omissions insurance passed, which it did in 2024. He explained that licensees have to get errors and omissions insurance prior to having their license renewed, however, those licensees that are not required to renew must remember to purchase errors and omissions insurance on the off year. Should those licensees not purchase a policy prior to January 1, their license is placed on inactive status. The option to provide the two-year policy to licensees would reduce costs of staffing and mailing, however, the cost for the policy would cost licensees an additional two percent.

After discussion, a motion was made by Gehrki and seconded by Burleigh to authorize Director Lemon to work with the Commission Offered Plan provider to offer a two-year cycle that coincides with the license renewal. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Discussion on Adverse Possession

Deputy Director Lowery presented a memorandum regarding squatter's rights and adverse possession. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Lowery reviewed the information provided on the exhibit. She indicated that she felt that the current laws were sufficient for this purpose.

There was discussion regarding the squatters' issues in other states, the various laws and how Nebraska is currently handling these situations. They discussed that further research may need to be conducted relating to this issue.

No action was necessary with regard to this matter.

Legislation & Rules Changes and Operative Dates

Director Lemon presented an exhibit which explains the recently passed legislation and the effective dates of these changes. A copy of said exhibit is attached to and made a part of these minutes.

Legislative Changes

Director Lemon presented a reference copy of the Legislative Bills 151, 152, and 1073. A copy of said exhibit is attached to and made a part of these minutes.

Rule Changes

Director Lemon presented an exhibit of the changes to Title 299 that became effective on May 5, 2024. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained the changes and effective dates to the various legislative and rule changes.

No action was necessary with regard to this matter.

Draft Regulations on Service of Process/Notice—LB151 Implementation

Director Lemon presented an exhibit of draft regulation changes to Title 299 and Title 305. A copy of the exhibit is attached to and made a part of these Minutes.

Director Lemon explained the implementation of LB151 and how the changes allow for expansion of the delivery of notices and service of process by the Commission. He further explained that this specifically impacts the legal notices for the hearings and those that don't have errors and omissions insurance. The Rules and Regulations would need to be changed to make these accommodations and, if acceptable, would like to set a Rules hearing for the June 2024 meeting.

After discussion, a motion was made by Peter and seconded by Dohse to authorize the Director to hold a hearing according to the approved changes as set forth in the exhibit. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Information Matters

ARELLO Annual Conference- September 23-26, 2024 - Chicago, IL

Director Lemon explained that the registration is open, and asked which Commissioners were planning on attending the conference.

No action was necessary on this report.

ARELLO Outreach – Jessica Hickok, ARELLO CEO

Director Lemon presented exhibits on ARELLO services. A copy of the exhibit is attached to and made a part of these Minutes. Jessica Hickok, the ARELLO Chief Executive Officer was present for discussion.

Ms. Hickok thanked the Commission for their involvement in ARELLO. She reviewed the services that ARELLO provides and indicated that she was committed to bringing support and knowledge to the ARELLO members.

There was discussion regarding the useful information learned at the ARELLO conferences and appreciated the opportunity for the Commission to collaborate with colleagues in other states. Commissioner Dohse expressed that he was please with the direction in which ARELLO is moving forward.

No action was necessary on this report.

Discussion Regarding NAR Lawsuit and Buyers Agency Agreements

Director Lemon indicated that at a future meeting, the Nebraska REALTORS Association would be present for discussion regarding the NAR class action lawsuit settlement and buyer's agency agreements.

No action was necessary on this report.

Future Meeting Dates

June 20-21, 2024 - Telegraph Lofts East Center, Lincoln
August 15-16, 2024, Telegraph Lofts East Center, Lincoln
September 19-20, 2024, Telegraph Lofts East Center, Lincoln
October 17-18, 2024, Telegraph Lofts East Center, Lincoln
November 21, 2024, Telegraph Lofts East Center, Lincoln

Recesses and Adjournment

At 10:09 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:19 a.m.

At 10:56 a.m., there being no further business to come before the Commission, a motion was made by Gehrki and seconded by Dohse that the meeting adjourn. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, and Evnen voting aye, with Ritter 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 May 16, 2024, meeting of the Nebraska Real Estate Commission were available for inspection on May 21, 2024, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,


Greg Lemon
Director

Guests Signing the Guest List

Ashley Hendrickson, Nebraska REALTORS® Association, Lincoln
Kim Braaten, Nebraska REALTORS® Association, Lincoln
Leighun Brabec, Larabee School, Lincoln
Deb Airola, REA, Omaha
Julie Joeckel, Woods Bros, Lincoln
Jessica Hickok, ARELLO, Oklahoma