

Nebraska Real Estate Commission

COMMISSION COMMENT

Winter

2004

Governor Appoints Wesley W. Grady to the Commission

Governor Mike Johanns appointed Wesley W. Grady to a six-year term on the Real Estate Commission beginning September 2004. Wes makes his home in North Platte. Wes went to High School in Gothenberg and graduated with a Bachelor of Science Degree from the University of Nebraska, Lincoln. He is the Broker and a co-owner of Gateway Realty of North Platte.

Wes has more than forty years of experience in the real estate field, receiving his real estate salesperson's license in January, 1964. He received his broker's license in June, 1965. Wes has earned the CRB and CRS designations from the National Association of Realtors®, his GRI from the Nebraska Realtors® Association, and the RMM from GMAC Real Estate Service. He was inducted into the GMAC Real Estate Service Broker Hall of Fame in 2001.

Wes has served the real estate industry by being an active member of the National, State and Local Realtors® Association, holding

various offices including 3 terms as his Board's President. He received his Board's Realtor of the Year recognition in 1997. On the state level he has served on various committees including the MLS Governance Committee, the Nominating Committee, and the Broker/Manager Work Group.

Wes serves his community as a member of the First United Methodist Church Foundation Board, as Director and Officer of the North Platte Area Development Corporation, and as a member of the North Platte Chamber of Commerce. At various times, past and present, Wes has served with a number of organizations including as a member of the Board of Directors for the Great Plains Regional Medical Center and as a member of the Board of Counselors for the University of Nebraska

Medical Center. He has served as a Scoutmaster of the Boy Scouts of America, a Tri Trails District council member and received the Silver Beaver. He is a past member of the North Platte Public School Foundation and the North Platte Planning Commission. He is a member of the Rotary club and is a Paul Harris Fellow recipient.

Wes has also proven to be a valuable asset to his community through participating in and/or leading fund drives for the United Way, the Great Plains Regional Medical Center's Callahan Cancer Center, and for local food pantries and homeless shelters.

Wes and his wife, JoAnne, enjoy living in North Platte where you may find Wes putting in his yard, garage or shop. He also likes to hunt, ski, golf, fish and travel.



Commissioner Grady (R) takes the Oath of Office from Chairperson Gale (L) while JoAnne Grady (C) looks on.



The Real Estate Commission Members (Left to Right): Larry Shepard, Harold Johnson, Mike Poskochil, Wesley Grady, Chairperson John Gale, Robert Moline, Jim Strand

Commission Meeting Schedule

January 12-13Lincoln
February 15-16Lincoln

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The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.

Greetings:

I extend a hearty season's greetings to all of our Nebraska real estate brokers, salespeople and their dedicated staffs. On behalf of the Nebraska Real Estate Commission and the citizens of Nebraska, thank you for your hard work, integrity and professionalism during 2004.



The real estate industry enjoyed another solid year in 2004. Although interest rates rose slightly during the year, they still remain low. This produced brisk sales and construction activity for the year. We hope the good fortune continues in 2005.

Veteran member Janice Wiebusch of Kearney, a broker representative, retired from the Commission in August. The Commission and the real estate industry honored her at a dinner in Lincoln on August 17. She served the Commission admirably and was a helpful mentor to me regarding the practice and regulation of real estate. We wish her and her husband, Jack, the best in their real estate practices.

Replacing Janice on the Commission is Wesley Grady of North Platte. With his wealth of real estate experience, Wes will be of great help in serving the needs of the public and the real estate industry.

In my four years on the Commission, I've been very impressed by the high standards exhibited by licensees in their business conduct. On a relative basis, the number of complaints the Commission receives is minuscule. There are some 7,000 licensees in Nebraska, and the Commission receives about 50-70 complaints a year. That means that 1 percent or fewer licensees are subject to a complaint in any year. The figures become even more impressive when you consider that a large share of the complaints are dismissed and do not result in disciplinary action. Considering the high volume of real estate activity each year, one has to be impressed with the industry's professionalism.

The Commission operates strong programs in the areas of pre-license education, licensing examination, continuing education and licensing regulation. While this excellence reflects the high quality of oversight by Commission staff, it also is due to the active participation in the design of these programs by licensees and licensee organizations. The Commission values such input and encourages licensees to contact the Commission with questions and comments that may improve the programs.

I think it is critically important to nurture a cooperative relationship between regulators and industry. Both the Commission and industry win if we work together to keep the focus of the industry on its duty to serve the public with integrity. But most importantly the public benefits.

The Commission is committed to doing its best to help the real estate industry be the best it can be. That will go a long way in ensuring that the industry has the trust and confidence of the public.

I send my best wishes to you for a season of family celebrations and renewed bonds of friendship. I hope the new year will bring great opportunity to each of you in your personal and business lives.

A handwritten signature in black ink that reads "John A. Gale".

John A. Gale

John Gale, Chairman

MEET THE REAL ESTATE COMMISSION STAFF

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff, if you have comments or suggestions as to how we may better serve you, please contact our office.

COMMUNICATIONS GUIDE

Ask for person indicated if you have questions in the following areas.

Commission Meeting Information .*Heidi Burklund*
InfoTech@nrec.state.ne.us
Complaint Procedures*Terry Mayrose*
DDEnf@nrec.state.ne.us
Continuing Education History or
Inquiries*Julie Schuur*
EdEnf@nrec.state.ne.us
Curriculum Design (Education &
Instructor Approval).....*Teresa Hoffman*
DeputyD@nrec.state.ne.us
Errors and Omissions Insurance
Inquiries*Teresa Hoffman*
DeputyD@nrec.state.ne.us
License Applications Packet
Requests*General Staff*
License Applications Process*Melanie Patrick-Heather*
Applic@nrec.state.ne.us
Licensing and Education
Requirements*Teresa Hoffman*
DeputyD@nrec.state.ne.us
New Licenses in Process. .*Melanie Patrick-Heather*
Applic@nrec.state.ne.us
Specialized Registrations*Monica Wade*
Finance@nrec.state.ne.us
Transfer of License*Marilyn Masters*
LicTsf@nrec.state.ne.us
Trust Account Matters.....*Terry Mayrose*
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Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2004-025 – Commission vs. John Ritums, Broker. Hearing held September 15, 2004. License revoked. [Violated Neb. Rev. Stat. § 81-885.24(29) by making a false statement of material fact on an application, specifically, not reporting Respondent's previous Nebraska license or the revocation of said license.] September 23, 2004

2004-028 – Commission vs. Lori Ann Reed, Salesperson. Hearing held September 16, 2004. License suspended for two (2) years, with the last year of said suspension stayed and served on probation, from September 23, 2004, through September 22, 2006; plus an additional six (6) hours of continuing education, including three (3) hours in the area of ethics and three (3) hours in the area of contracts, to be completed by September 22, 2005. [Violated Neb. Rev. Stat. § 81-885.24(29) by demonstrating negligence, incompetency or unworthiness, specifically, that the Respondent's license had previously been suspended by the State of Nebraska Department of Insurance and the violation involved money.] September 23, 2004

2004-032 – Jerome M. Meyer vs. Bonnie Lou Nemecek, Broker. Stipulation & Consent Order. License suspended for two (2) years from October 18, 2004, through October 17, 2006, with the entire period stayed and served on probation; plus

an additional nine (9) hours of continuing education, including three (3) hours in the area of agency, three (3) hours in the area of contracts, and three (3) hours in the area of ethics, to be completed by February 14, 2005. [Violated Neb. Rev. Stat. § 81-885.24(25) by filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the titled real estate when no valid claim under the listing contract existed. Specifically, Respondent filed her Mechanic's Lien against one of the buyer's town homes in order to recover a commission; 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a salesperson.]

October 18, 2004



We've Got Mail!!

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population. With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.

FREQUENTLY ASKED QUESTIONS

Concerning Incorporating the Required Criminal Background Check into the Application Process

(A LOOK AT THE FIRST 12 MONTHS OF THE REQUIREMENT)

This article is a look at the first 12 months of the requirement cited in Neb.Rev.Stat. Sections 81-885.13 (5) and 81-885.17 (4) requiring criminal history background reports of applicants for original licensure. This article looks at statistics from August 31, 2003 through August 31, 2004. Following are the most frequently asked questions regarding this requirement the Real Estate Commission staff has fielded during the past year.

Who is affected?

All applicants for original licensure as a real estate salesperson or broker. This includes those applying for licensure through examination and those applying based on the recognition of license from another jurisdiction. Since 8/31/03 through 8/31/04 we have received and accepted 903 applications.

What is required?

Applicants are required to acquire the fingerprint cards from the Commission office which come with complete instructions on how to proceed. After filling out personal information on the cards and having their fingerprints rolled professionally, they submit the completed cards with a \$33 payment to the Nebraska State Patrol. The State Patrol then produces a criminal history report which includes both State Patrol and FBI gathered history. The report is sent by inneroffice state government mail to the Commission office.

Since 8/31/03 through 8/31/04 we have received 1,106 criminal history reports.

When is the criminal background report required in the process?

The statute specifies, "...The criminal history record information check shall be completed within ninety days preceding the date the original application for a license is received in the commission's office, and if not, the application shall be returned to the applicant."

Since 8/31/03 through 8/31/04 we have accepted 903 applications and returned 121 because the criminal history report had not yet been received. All but a few of the returned applications are resubmitted and become a part of the total accepted.

Where can the fingerprint cards be obtained?

Two cards for prints are necessary. The fingerprint cards must be obtained from the Nebraska Real Estate Commission office because these cards have a specific control number printed on them that authorizes the Commission's receipt of the report based upon the Commission's statutory authority.

Who can roll the fingerprints?

Applicants must utilize a law enforcement agency to have their prints rolled onto the cards so that they are readable. Applicants must present some form of State or Federal issued personal identification and supply the cards obtained from the Nebraska Real Estate Commission office. Nebraska State Patrol sites will roll fingerprints without a separate charge. Some other law enforcement agencies may charge a separate fee for rolling fingerprints. Most offices require appointments for rolling fingerprints. A list of Nebraska State Patrol sites, addresses, and phone numbers is included with the fingerprint cards.

Where should the fingerprints be sent for processing the report?

The prints must be submitted to the Nebraska State Patrol for processing as specified in the statute: "...The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. ..." Information included with the fingerprint cards indicates how to submit the prints to the State Patrol. A criminal background report produced by some resource other than the Nebraska State Patrol will not be accepted to meet the

requirement.

Why was this statute enacted?

The Real Estate Commission and the Nebraska Association of REALTORS supported this legislation. It was felt that the requirement to self-report criminal background on the application, which remains a part of the process, should be supplemented by verification with law enforcement records. The State Patrol and the FBI's databases are considered the most comprehensive source of these records. The fingerprint process is considered the most secure form of verifying identity in practical use currently.

How does the criminal background report process fit into the overall licensing process?

The very **first** step in the licensing process is to contact the Commission for licensing application materials, this has always been conveyed through the Commission office, real estate offices, and real estate schools. The initiation of the criminal background report has served to support and emphasize this existing practice. Specific information on the criminal background check and the need to initiate this process early is highlighted on the website and in the application packets.

The **second** step—applicants for licensure are advised to pursue the fingerprinting process at least six weeks prior to submitting their application. They are also advised that they may wish to be in contact with the Commission office prior to submitting their application to ascertain that, indeed, their report has been completed. Commission staff, recruiters, and educators encourage applicants to work on other aspects of the application process while their Background Report is being processed.

The **third** step—once an applicant knows the report has been completed they have ninety days to submit their

(Continued on page 5)

application form for licensure. The intention is to keep the report current to the rest of the application materials. **Please note: the 90-day time restriction is between the time the report is completed and the time the application is submitted to our office only.** **Clarification and follow-up in the application process and education do NOT have to be complete within this 90 days. Application details and education may be completed beyond the 90 days.**

The **fourth** step—after the application materials are all complete, applicants pursuing examination are given directions on how to proceed through examination. Those pursuing license by recognition move on to licensing.

Finally, those who have successfully completed the examination or are seeking licensure through license recognition proceed with finalizing licensing information i.e. manner of doing business details, errors & omissions insurance, fees, etc. and are granted a license.

Have there been many complaints about the process?

Considering that the process affects every applicant for original license the number of concerns to the Commission office from applicants has been relatively small. Most of these inquiries are about the process and sequence of events.

The Commission office has heard more concern from employing brokers than any other group.

What have been the primary concerns with the Criminal Background Report process?

The main concern has been with the time it takes for the criminal background reports to be produced. Another concern is that the process prolongs the time between completing education and taking the examination resulting in poor performance on the examination. There is also a concern that this process may negatively impact the number of people being licensed.

How long does it take for a criminal history report to be produced?

Statistics for the months of January

through August, 2004, indicate that the average number of calendar days from the date the State Patrol receives the fingerprint cards until the day the criminal report is completed is 33.

Has this timeframe been adjusted over the last year?

Yes, originally, when the State Patrol was consulted in drafting this legislation, they indicated that a criminal history report could be produced in approximately 2 weeks. However, due to significantly increased statutory demand and increasing use of the fingerprint data system by private industry the State Patrol has had to adjust this expectation.

How is the State Patrol addressing the increased demand?

The State Patrol has moved their fingerprinting facilities to larger office space and increased its fingerprint processing staff to the maximum budgetary allowance. Recently, the Department of Health and Human Services has funded an additional position at the State Patrol facility to address that Department's criminal record demand. Therefore, when staffing is fully hired and trained, in approximately three months, Lt. Shelton expects a two to four-week turn around time for processing criminal background reports.

Why do the materials recommend that applicants submit their fingerprints at least six weeks prior to application if the average number of calendar days to produce the criminal background report is 33?

Thirty-three days is an average, not all reports are that timely. The Commission office attempts to advise applicants so that they may move through the application process as efficiently as possible. Allowing extra time for those processes out of the applicants' control while encouraging progress in those things they can affect i.e. coursework, amassing application materials, etc. maximizes efficiency. The Commission keeps extensive statistics on this process. The average is being computed and reviewed continually. If the average changes significantly, information from the Com-

mission and to the applicants will be adjusted accordingly.

Why would someone's criminal background report take longer than another's?

While most applicants fall into the 33-day average, unforeseen variables can affect others' experience. Some applicants will have to have their fingerprints re-rolled because of physical attributes or clarity for the scanners. While others' processing may require additional verifications to ascertain that the information reported is accurate.

From 8/31/03 through 8/31/04, 136 sets out of 1,106 sets of fingerprints have been unreadable and needed to be re-rolled.

Does the criminal background report necessarily delay the examination?

No, it need not. A typical applicant who must take the examination must complete the criminal background report process and at least two pre-license courses. Additional education may be needed for broker applicants depending on experience.

A survey of pre-license education providers reveals that the shortest time possible for an applicant to complete two classroom courses is 5 weeks. These would be the relatively rare occasions when both courses are taken at an accelerated rate. More typically such coursework would take between 8-12 weeks. (It should be noted that correspondence courses are not included in these statistics as they are too individualized and underutilized to produce a reliable average. However, two weeks per class is about the minimum time in our Providers' experience, which would total the rare 4-week acquisition of pre-license coursework.)

Therefore, if applicants submitted their fingerprints prior to or when beginning their education, as all of the schools advise them, their criminal background reports would be completed before their education in most instances. Even allowing that the application must follow the criminal background report, the criminal background report need not delay the examination.

Have there been cases where the criminal background

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FAQs (Cont'd)

report has delayed someone from taking the licensing examination?

Yes, there have been such cases but the reason for the delay can almost always be traced back to when the applicant submitted the fingerprints, initiating the process.

We are working on emphasizing proper timing to applicants in a variety of ways. Our website notice and the one that accompanies the fingerprint cards are emphatic about starting the process early. Our school administrators and individual instructors have been cooperating in making announcements at time of registration and on the first night of class. Some schools are requiring as homework that students acquire the fingerprint cards and initiate the process or indicate they understand the ramifications of delaying the process. An article in the Winter 2003 Commission Comment explained the application and licensing process including the criminal

background report process and enlisted the aid of Brokers in explaining the process to potential applicants.

However, even with full knowledge there will be those who simply pursue the licensing process in a less than efficient manner. This may delay them somewhere in the process and that can happen between course completion and examination.

Has the implementation of the criminal background report process appeared to have an adverse impact on the licensing examination?

Monthly examination statistics are reviewed by the Commission. There has been no indication that the criminal background report has affected the examination statistics. Examination passing statistics are consistent with those statistics gathered for years. Our applicants generally perform well on the examinations.

For the months of September 2002 through August 2003 the passing percentage for Broker examinations was 57% and the passing percentage for Salesperson

examinations was 56%. The following year, with the inception of the criminal background report, September 2003 through August 2004; the passing percentage for Broker examinations was 58% and the passing percentage for Salesperson examinations was 59%.

Has the implementation of the criminal background report process appeared to have an adverse impact on the numbers of individuals being licensed?

No, the numbers of original licenses issued since the inception of the background report process are comparable to the same statistic for the same time period the previous year when the requirement was not in place.

For the months of September 2002 through August 31, 2003 there were 661 new salesperson licenses issued and 122 new broker licenses issued. For the same period the following year (September 2003 through August 31, 2004) there were 665 new salesperson licenses issued and 106 new broker licenses issued.