

NEBRASKA REAL ESTATE COMMISSION

January 22, 2009

Hampton Inn-Airport

Platte/Airport Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:05 a.m. on January 22, 2009, in the Platte/Airport Room of the Hampton Inn-Airport, located at 1301 West Bond Circle in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Commissioner Dover, who was absent and excused. Also present were Deputy Director for Education and Licensing Teresa Hoffman, Deputy Director for Enforcement Terry Mayrose, and Administrative Assistant Monica Rut. Greg Barton, Special Assistant Attorney General and Counsel to the Commission, was present for an Investigative Matter.

Notice of Meeting (Adopt Agenda)

Deputy Director Hoffman 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, in writing, 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 to the public on the counsel table in the meeting room; that a copy of the Open Meetings Act was posted on the easel located in the east side of the meeting room by the north entrance; and that the procedures followed were in accordance with the Open Meetings Act. Chairperson Gale asked that guests sign the guest list.

Deputy Director Hoffman noted that agenda item 15d – LB 226 – Change Age of Majority had been added since the tentative agenda was mailed to the Commissioners:

After review of the final agenda, a motion was made by Grady and seconded by Leisey to adopt the final agenda as presented. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Minutes of December 4, 2008

The minutes of the Commission meeting held on December 4, 2008, were considered.

After review, a motion was made by Griess and seconded by Bohrer to approve the minutes as presented. Motion carried with Bohrer, Griess, Leisey, Rouch and Grady voting aye, with Dover not participating or voting, being absent and excused, and with Gale not voting having not been in attendance at the December Meeting.

Receipts and Expenditures Report for December

Deputy Director Hoffman presented the Receipts and Expenditures Report for December. A copy of said report is attached to and made a part of these minutes. Deputy Director Hoffman noted that an explanation page was included on the report.

The cash fund balance as of December 31, 2008, was \$847,709.62, which compared to a cash fund balance of \$821,973.45 on December 31, 2007.

After discussion, a motion was made by Grady and seconded by Leisey to file the December Receipts and Expenditures Report for audit. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Renewal Report

Deputy Director Hoffman presented the Renewal Report. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

Specialized Registrations

Time-Share Registration – The Village at Steamboat Springs Vacation Ownership Plan

Deputy Director Hoffman presented a specialized registrations report which included the time-share registration for The Village at Steamboat Springs Vacation Ownership Plan. A copy of said report is attached to and made a part of these minutes.

After discussion, a motion was made by Leisey and seconded by Griess to approve the report as presented. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report

Deputy Director Hoffman 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 Griess and seconded by Bohrer to ratify issuance of the licenses as set forth in the report. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Examination Reports – November & December

Deputy Director Hoffman presented for ratification the November and December Examination Reports, copies of which are attached to and made a part of these minutes.

After review, a motion was made by Bohrer and seconded by Griess to ratify the November and December Examination Reports for the purpose of issuing licenses. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Real Estate Education Matters

Continuing Education Activity Approval

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

After review, a motion was made by Bohrer and seconded by Leisey to ratify the report. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Pending Sworn Complaints and Investigative Matters

Deputy Director Hoffman 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 2007-071 – Matthew William Meister vs. Julie Lynn Carper

Deputy Director Mayrose 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 Leisey and seconded by Bohrer that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item B Complaint 2008-007 – Michael & Mindy Hart vs. Mary Jo Chapman

Deputy Director Mayrose 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 Leisey and seconded by Bohrer that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion carried with Bohrer, Grady, Leisey, Rouch and Gale voting aye, with Griess voting nay, and with Dover not participating or voting, being absent and excused.

Item C Complaint 2008-009

Deputy Director Mayrose 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 Grady and seconded by Leisey that this complaint be dismissed without prejudice and a new complaint be filed on the Commission's own motion per the Staff recommendation. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item D Investigative Matter

Prior to discussion of this matter, Commissioner Leisey recused himself, thereby nullifying any potential conflict of interest.

Deputy Director Mayrose presented the 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 Griess and seconded by Grady that a complaint be filed on the Commission's own motion per the Staff recommendation. Motion carried with Bohrer, Grady, Griess, Rouch and Gale voting aye, with Leisey not participating or voting, having recused himself, thereby nullifying any potential conflict of interest, and with Dover not participating or voting, being absent and excused.

Item E Investigative Matter

Deputy Director Mayrose presented the 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 Grady and seconded by Bohrer that a complaint be filed on the Commission's own motion per the Staff recommendation. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item F Investigative Matter

Deputy Director Mayrose presented the 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 Leisey and seconded by Bohrer that a complaint be filed on the Commission's own motion per the Staff recommendation. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item G Complaint 2007-024 – Gerald Don Baggett vs. John Steven Headlee

Deputy Director Mayrose requested Complaint 2007-024 be dismissed. Deputy Director Mayrose explained that Complaint 2007-024 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2007-024 in abeyance until the new complaint had been adjudicated. Complaint 2007-064 was the new complaint. A Stipulation and Consent Order had been accepted on Complaint 2007-064 at the December meeting.

A motion was made by Bohrer and seconded by Leisey to dismiss Complaint 2007-024, since the Commission had accepted a Stipulation and Consent Order at the December meeting. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item H Complaint 2008-015 – Clifford Thomas vs. Dorothy Haws

Deputy Director Mayrose requested Complaint 2008-015 be dismissed. Deputy Director Mayrose explained that Complaint 2008-015 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2008-015 in abeyance until the new complaint had been adjudicated. Complaint 2008-040 was the new complaint. A Stipulation and Consent Order had been accepted on Complaint 2008-040 at this meeting.

A motion was made by Bohrer and seconded by Leisey to dismiss Complaint 2008-015, since the Commission had accepted a Stipulation and Consent Order for Complaint 2008-040 at this meeting. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item I Complaint 2008-016 – Ruth Kaufman, Harold Kaufman and Vicki Bott vs. Farrell Ross

Deputy Director Mayrose requested Complaint 2008-016 be dismissed. Deputy Director Mayrose explained that Complaint 2008-016 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2008-016 in abeyance until the new complaint had been adjudicated. Complaint 2008-041 was the new complaint. A Stipulation and Consent Order had been accepted on Complaint 2008-041 at this meeting.

A motion was made by Grady and seconded by Bohrer to dismiss Complaint 2008-016, since the Commission had accepted a Stipulation and Consent Order for Complaint 2008-041 at this meeting. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item J Complaint 2007-043 – Gabriel Lee Beavers vs. Constance Leana Hartig and Connie Sue Smith

Greg Barton, Special Assistant Attorney General and Counsel to the Commission, presented a verbal report on this investigation to the Commission and, when necessary, answered questions on this matter.

A motion was made by Grady and seconded by Griess that Complaint 2007-043 be dismissed without prejudice. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

**Complaint 2008-030,
Commission vs. Vincent W. Leisey, Richard Lynn Gibb, Sherri Lynn Hinkel
and Susan Marie Noland**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2008-030, Commission vs. Vincent W. Leisey, Richard Lynn Gibb, Sherri Lynn Hinkel and Susan Marie Noland. A copy of said Order is attached to and made a part of these minutes.

Prior to discussion of this matter, Commissioner Leisey recused himself, thereby nullifying any potential conflict of interest.

After discussion, a motion was made by Grady and seconded by Bohrer to enter into the Order as presented. Motion carried with Bohrer, Grady, Griess, Rouch and Gale voting aye, with Leisey not participating or voting, having recused himself, thereby nullifying any potential conflict of interest, and with Dover not participating or voting, being absent and excused.

**Complaint 2008-040,
Commission vs. Dorothy Mae Haws**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2008-040, Commission vs. Dorothy Mae Haws. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Bohrer and seconded by Leisey to enter into the Order as presented. Motion carried with Bohrer, Grady, Griess, Leisey and Rouch voting aye, with Gale voting nay, with Dover not participating or voting, being absent and excused.

**Complaint 2008-041,
Commission vs. Farrell F. Ross**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2008-041, Commission vs. Farrell F. Ross. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Bohrer and seconded by Leisey to enter into the Order as presented. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Hearings

Complaint 2008-004 Commission vs. Gary Thomas Thompson and Michael Dean Slatten

The Hearing regarding Complaint 2008-004, Commission vs. Gary Thomas Thompson and Michael Dean Slatten was continued.

Informal Special Appearances

Benjamin Lamar Deis, Nonresident Salesperson Applicant

Deputy Director Hoffman presented an exhibit which included: correspondence regarding Mr. Deis' special appearance; a summary of Mr. Deis' situation; a summary from Mr. Deis explaining his situation; Mr. Deis' criminal history report; and his salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Mr. Deis was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Deis distributed a letter of reference from his prior employing broker in Colorado. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 12a1.

After discussion, a motion was made by Leisey and seconded by Griess to allow Mr. Deis to receive a salespersons license issued with the conditions that Mr. Deis notify Commission staff, within thirty days, of any felony or misdemeanor charges during his first two years of licensure; Mr.

Deis must notify his employing broker of his criminal convictions and the circumstances of the convictions; and the employing broker must confirm said notification, in writing, to the Commission prior to issuance of the license. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Annual Review and Approval of Trust Account Examination Schedule

Deputy Director Mayrose presented a reference copy of the Commission's Approved Procedures and Cycle for Trust Account Examinations. A copy of said exhibit is attached to and made a part of these minutes. Deputy Director Mayrose noted that there had been a typographical error in the months of the cycle and that the report had been corrected for the record.

Deputy Director Mayrose indicated that there were no recommended changes to the document.

After discussion, a motion was made by Grady and seconded by Leisey to approve the exhibit as amended. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Consider Approval of Special Assistant Attorneys General New Fee Schedule

Deputy Director Hoffman presented an exhibit of the proposed hourly rate schedule for the special assistant attorneys general to become effective January 1, 2009. A copy of said exhibit is attached to and made a part of these Minutes.

After discussion, a motion was made by Bohrer and seconded by Leisey to approve the proposed new hourly rates and to have the new rates become effective January 1, 2009. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Legislative Matters

LB 11 - Deputy Director Hoffman reported that the bill had been moved to general file.

LB 29 - Deputy Director Hoffman reported that the bill had been moved to general file. Chairperson Gale reported that the testimony for both this bill and LB 30 had been excellent and Senator Pahls intended using that testimony in his floor statement.

LB 30 - Deputy Director Hoffman reported that the bill had been moved to general file. Commissioner Griess suggested that should the bill be passed, a study be conducted or a standard be drafted to address the appropriate use of the fining authority. Commissioner Leisey indicated that he had been asked questions on the fining authority and in response had indicated that in other states when using the fining authority, the judgment had been left up to the Commission. Commissioner Griess indicated that she would feel more comfortable using the fining authority if recommended amounts were in black and white. Chairperson Gale suggested developing guidelines and explained that guidelines were not under the Rules and Regulations, and could be amended. Deputy Director Hoffman indicated that in the Committee hearing she had also received questions regarding the fining authority and how the fines would be fair and consistent. She had explained to the Senators that when disciplinary actions were determined on complaints, it was customary for the Commission to refer back to previous records of disciplinary actions taken to assure some consistency. She explained that when she had previously conducted a survey on fining authority in other jurisdictions, she had been told that it was best not to have fining be a hard and fast rule, as each case was somewhat different.

Chairperson Gale noted that it was nice to have flexible guidelines. Chairperson Grady felt that it was important for the Commission to consider the progression of the fining authority, such as fining then censure. He also wanted to know if the commission could have an informal session to establish guidelines. Chairperson Gale suggested a committee be assigned to conduct the brainstorming and then put the topic on the agenda so the Commission would have a recommendation to consider. Commissioner Grady asked what time frame the Commission had in order to come up with the guidelines. Deputy Director Hoffman indicated that while the bill gives the Commission the flexibility for using fining authority, the Commission did not have to start using fines right away, however, she felt that the discussion could begin after the bill had been passed. Chairperson Gale indicated that perhaps when the Governor signs the bill then the discussions could begin. Deputy Director Hoffman indicated that the bill could be signed in a month or so and would be effective in September. Chairperson Gale suggested that the Commission wait for the bill to be adopted, and if agreeable, the budget committee draft guidelines to bring to the Commission meeting for discussion, perhaps in June.

LB 226 - Deputy Director Hoffman reported that this bill, to change the age of majority, is the same bill as monitored during last session. She indicated that the Commission had not taken a position on the bill in the previous session, but would continue to monitor the bill.

LB 311 – Deputy Director Hoffman reported that this was the deficit appropriation bill and the Governor's office recommended the Commission's request.

LB 315- Deputy Director Hoffman reported that this was the Commission's Budget Request for the 2009 – 2011 Biennium. She indicated that Director Tyrrell and she just received the information and were reviewing these bills. She explained that the appropriation in LB 315 had been less than what was requested, which was typical. She explained that the hearing on LB 315 was scheduled for February 24. She indicated that the Commission had a good relationship with the legislative budget analyst. She indicated that after she and Director Tyrrell had a chance to analyze the bills there was another Commission meeting scheduled before the hearing before the Appropriations Committee so that they could bring any additional information to the Commission before the hearing. Chairperson Gale indicated that the Governor had requested agencies to absorb the decrease in the budget over the next two years which would be fine for the large agencies, however, small agencies may have to lay people off in order to achieve this request. However, he was unsure if the Appropriations Committee would follow what was set out for code agencies and if so the Commission may need to comply. Deputy Director Hoffman indicated that the Commission had always budgeted conservatively. Overall, she felt the Commission would be alright. Chairperson Gale indicated that it was good that the Commission was a non-code agency since the Commission was funded by fees rather than tax dollars. He indicated the Governor had said he would not touch the cash funds. Commissioner Leisey indicated that the Commission was self funded.

No action was necessary with regard to these matters.

Information Matters

ARELLO Mid-Year Meeting – April 27-29, 2009 - Asheville, North Carolina

Deputy Director Hoffman indicated that because of the recent Leadership Symposium, the registration and schedule information for this meeting had been delayed and was not yet available. She indicated that the Commissioners would want to consider the changes in the format to the meeting when considering their participation. She also reported that in the

Governor's State of the State Address he had asked that agencies limit travel and that in the spirit of cooperation we might wish to take that into consideration.

Chairperson Gale asked if the budget had included funds for this year's travel. Deputy Director Hoffman indicated that it had. Chairperson Gale then asked if the Appropriations Bill had indicated any problem with the travel appropriation. Deputy Director Hoffman indicated that it had not. Chairperson Gale then indicated that he felt the Commissioners generally benefitted from these meetings and that they should feel free to determine their participation accordingly.

Commissioner Griess asked if the Fall conference would be providing general sessions. Deputy Director Hoffman noted that it is expected that with the changes to the Spring meeting, ARELLO will have greater resources to concentrate on the Annual Conference held in the Fall. She said to expect greater emphasis placed on education sessions at the Fall meeting. Commissioner Grady asked if Committees were open to members. Deputy Director Hoffman indicated that they were and that the Commissioners might find that even those committees on which Commissioners are not members might be of interest. She suggested the various education committees and the Law committee might be of particular interest. Deputy Director Hoffman indicated that she would be watching the website for specific registration and program information for the Asheville meeting and would put it on the agenda for the next meeting.

Deputy Director Hoffman also reported that the two-day Commissioner College was being considered to either precede or immediately follow the District Conference in June. She recommended that anyone who had not completed the Commissioner College consider attending. Discussion on this meeting will take place at a future meeting as well.

No action was necessary on this report.

ARELLO Leadership Symposium and Board of Directors Meeting – January 15-18, 2009 - Charlotte, North Carolina – Report of Attendee

Deputy Director Hoffman reported on this meeting before discussing the ARELLO Mid-Year Meeting in Asheville, North Carolina because decisions made at the Leadership Symposium affected that subsequent meeting.

She reported that ARELLO's Program Committee and Board of Directors met along with working group chairs and vice chairs. There was also a strategic planning exercise that involved everyone there. Through discussion, it became evident that because of budget constraints most jurisdictions are facing, many jurisdictions either have banned travel all together or are limiting it more tightly. She reported that it was decided that with the expected limitations placed on jurisdictions, ARELLO would focus on having one conference each year, in the Fall. The Spring meeting will be limited to working group meetings, business meetings and a Board of Directors meeting. There will be no general sessions at the Spring meetings in the future. Deputy Director Hoffman noted, however, that to make a smooth transition this year's Spring meeting will have two general sessions in addition to the working group and Board of Directors meetings. The first will be a member orientation to ARELLO and will also explain this change in meeting format. The second general session, to last approximately two hours, will be on a topic yet to be determined.

No action was necessary on this report.

Future Meeting Dates

February 19-20, 2009 - Staybridge Suites, Lincoln

March 19-20, 2009 - Staybridge Suites, Lincoln

May 21-22, 2009 - Staybridge Suites, Lincoln

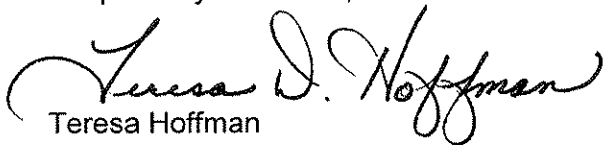
Recesses and Adjournment

At 10:32 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:46 a.m.

At 12:13 p.m., there being no further business to come before the Commission, a motion was made by Grady and seconded by Leisey that the meeting adjourn. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

I, Teresa Hoffman, Deputy Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the January 22, 2009, meeting of the Nebraska Real Estate Commission were available for inspection on February 3, 2009, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Teresa Hoffman
Deputy Director

Guests Signing the Guest List

Kristen Anderson, Nebraska REALTORS® Association, Lincoln