

NEBRASKA REAL ESTATE COMMISSION

March 18, 2021

Country Inn & Suites

Omaha Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:04 a.m. on March 18, 2021, in the Omaha Room of the Country Inn & Suites, located at 5353 N 27th Street in Lincoln, Nebraska. All members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Education Alane Roubal, Deputy Director for Enforcement Antwan Montague, and Deputy Director for Licensing Monica Rut. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, was present for the Berthold Disciplinary Matter.

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 Titus and seconded by Gehrki to adopt the final agenda as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes of February 18, 2021

The minutes of the Commission meeting held on February 18, 2021, were considered.

After review, a motion was made by Titus and seconded by Bourne to approve the minutes as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, 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 February

Director Lemon presented the Receipts and Expenditures Report for February. 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 February 28, 2021, was \$1,489,213.71, which compared to a cash fund balance of \$1,808,762.21 on February 29, 2020.

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

Specialized Registrations

Time-Share Registrations - Amendment for Orange Lake Land Trust and ClubWyndham Access Vacation Ownership Plan

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

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

Examination Report – February

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

After review, a motion was made by Titus and seconded by Ritter to ratify the February Examination Report for the purpose of issuing licenses. Motion carried with Bourne, Dohse, 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.

Real Estate Education Matters

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.

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.

Continuing Education Renewal Report

Deputy Director Roubal presented the Continuing Education Renewal Report, a copy of which is attached to and made a part of these minutes.

Commission-Approved Training Expirations

Deputy Director Roubal presented the Commission-Approved Training Expirations, 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 Ritter to ratify the four reports as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes from Education Advisory Group Meeting– March 2021

Deputy Director Roubal presented the Minutes from the Education Advisory Group Meeting for March 2021, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained that they discussed the offering of safety courses, and submissions requesting R, RPM or CAT would be desired. There was also discussion regarding distance learning to engage the students while using a webinar platform.

No action was necessary on this report.

Allowing Safety Courses as “R” Courses for Continuing Education Credit

Deputy Director Roubal presented the recommendations from the Education Advisory Group regarding safety courses for licensees, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained that through discussions at prior meetings, it was felt that the safety courses would merit the “R” designation. After further discussion, the contents of the class would determine which designation would be assigned but felt it could be considered, an R, RPM or a CAT course. Deputy Director Roubal indicated that she had received outlines that could assist providers in developing the safety course, if desired.

Ryan Gibson, with NP Dodge Co, explained that the safety of agents as well as the public was important and was supportive of the various designations that could be assigned to the topic.

Nate Dodge, with NP Dodge Co, explained that this is fundamental training and it is important for licensees to be as safe as possible working in this industry.

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

Pending Sworn Complaints and Investigative Matters

Deputy Director Montague 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 2020-016 - Stanley S. Fullner v. Keith A. Lutz

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

Item B Complaint 2019-041 – David Lee & Cindy Lou Siems vs. Stacey J. Stracke

Deputy Director Montague requested Complaint 2019-041 be dismissed. Deputy Director Montague explained that Complaint 2019-041 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 2019-041 in abeyance until the new complaint had been adjudicated. Complaint 2020-024 was the new complaint and was settled through a stipulation and consent order.

A motion was made by Titus and seconded by Gehrki to dismiss Complaint 2019-041, since the Commission accepted a Stipulation and Consent Order for 2019-041. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Item C Complaint 2021-002 - Nebraska Real Estate Commission vs. Enam Tinno Kodjo Dosseh

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

Presentation of Stipulation and Consent Orders

There were no Stipulation and Consent Orders to be presented at this meeting.

Rule Hearings

Rule Hearing on Title 299, Chapters 1 And 7 – Amendments Relating to Real Estate Licensee Pre-License Education, and Continuing Education

At 10:00 a.m. on March 18, Chairperson Evnen called to order the public hearing on the proposed amendments to Title 299, Chapters 1 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 1 and 7, in legislative style. Exhibits are attached to and made a part of these minutes.

Director Lemon explained that the proposed changes would follow the procedures that were allowed during the pandemic regarding synchronous learning for both pre-license and post license education. The proposed changes would require the pre-license instructors to obtain additional education in keeping students engaged in remote learning activities. There was also discussion regarding the changes which will allow the instructors to warn students who may not be participating and not give them credit if they are still not engaged.

Chairperson Evnen asked if any member of the public wished to speak regarding the proposed amendments.

A motion was made by Dohse and seconded by Ritter that the Commission adopt the changes to Title 299, Chapters 1 and 7, and to direct staff to complete the filing process for the proposed rule changes. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Chairperson Evnen declared the rule hearing concluded at 10:16 a.m.

Disciplinary Matters

Respondent's Motion to Dismiss Complaint Number 2020-002 – Commission vs. Angela Joy Berthold – 10:30 a.m.

A Motion to Dismiss was submitted by the Respondent's counsel in the matter of 2020-002. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Angela Joy Berthold was present and represented by Counsel Troy Bird of Lincoln.

Counsel Bird presented oral argument supplementing the brief in support of the motion to dismiss. Counsel Prochaska presented oral arguments to supplement his brief against the

motion. Briefs from both parties, attached to and made part of these minutes, were also provided to and reviewed by the Commission

Chairperson Evnen noted that the pre-hearing conference order supersedes the complaint, therefore the issues and allegations in the order as set forth in the order are the appropriate matters for the Commission to consider when adjudicating the complaint.

A motion was made by Bourne and seconded by Titus to deny the motion to dismiss. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Informal Special Appearances

Christine Pearl Anderson, Salesperson Applicant

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

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Anderson explained the situations regarding her criminal history.

A motion was made by Starman and seconded by Gehrki that Ms. Anderson not be allowed to sit for the salesperson examination at this time. Motion carried with Gehrki, Ritter, Starman, and Evnen voting aye, with Titus and Dohse voting nay, with Bourne not participating or voting, having recused herself, thereby nullifying any potential conflict of interest,

Consider Renewal of Errors and Omissions Insurance Contract with Williams Underwriting Group (WUG) for 2022

Director Lemon presented an exhibit regarding the 2022 Renewal of Contract Quotation from Williams Underwriting Group (WUG). A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that the errors and omissions insurance coverage and underwriter would be the same as the current year. He noted that the terms would remain the same as the current program, and the premium amount would not be increased.

A motion was made by Starman and seconded by Ritter to approve the renewal of contract with WUG for 2022 as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Legislative Matters

LB 94 - Director Lemon reported that this bill had been Placed on Final Reading.

LB 112 - No new information presented.

LB 196 – No new information presented.

LB 263 – No new information presented.

LB 423 – Director Lemon reported that this bill was placed on General File. Commissioner Starman reported that the bill was prioritized yesterday.

Information Matters

ARELLO Mid-Year Meeting – June 30-July 3, 2021 - San Antonio, Texas

Director Lemon explained additional information would be forthcoming, and asked which Commissioners were planning on attending the conference.

No action was necessary on this report.

Future Meeting Dates

April 22-23, 2021 - Country Inn and Suites, Lincoln

May 20-21, 2021 - Country Inn and Suites, Lincoln

June 17-18, 2021 - Country Inn and Suites, Lincoln

August 19-20, 2021 – Country Inn and Suites, Lincoln

September 23-24, 2021– Country Inn and Suites, Lincoln

October 21-22, 2021 – Country Inn and Suites, Lincoln

November 18-19, 2021 - Country Inn and Suites, Lincoln

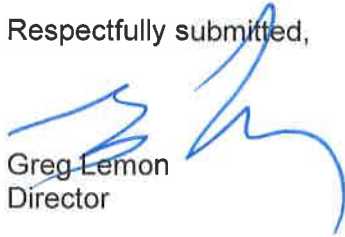
Recesses and Adjournment

At 9:57 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:07 a.m.

At 11:16 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 March 18, 2021, meeting of the Nebraska Real Estate Commission were available for inspection on April 1, 2021, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

- Charles Chadwick, CNC Realty, Omaha
- Debbie Mitchell, Coldwell Banker REA, Omaha
- Nate Dodge, NP Dodge, Omaha
- Ryan Gibson, NP Dodge, Omaha