

NEBRASKA REAL ESTATE COMMISSION

October 21, 2021

Country Inn and Suites

Omaha Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on October 21, 2021, 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, with the exception of Commissioners Bourne and Ritter, who were absent and excused. 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.

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 17 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 Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

Minutes of September 23, 2021

The minutes of the Commission meeting held on September 23, 2021, were considered.

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

Samuel Zach, with Zag Land Company, LLC, was present and wished to discuss dual brokerage. Mr. Zach distributed a letter explaining why he would like to be provided an exemption for dual brokerage. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 4a.

Mr. Zach explained that he wanted to provide land management services out of Zag Land Company, LLC where he is currently the designated broker. He would like to conduct land sales and brokerage services as an associate broker under a separate broker and entity. He indicated that he would like the Commission to consider an exemption to the law and asked about the process necessary to get that exemption approved.

Chairperson Evnen explained that there is currently no exemption provided in the administrative rule, therefore the Commission is bound to apply that result.

Other options and alternatives, such as merging the brokerages, were discussed with Mr. Zach. Mr. Zach indicated that he would seek guidance, if needed, with these alternatives.

Receipts and Expenditures Report for September

Director Lemon presented the Receipts and Expenditures Report for September. 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 September 30, 2021, was \$1,206,781.10, which compared to a cash fund balance of \$1,489,665.70 on September 30, 2020.

After discussion, a motion was made by Titus and seconded by Starman to file the September Receipts and Expenditures Report for audit. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and 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 Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

Examination Report - September

Deputy Director Roubal presented for ratification the September 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 Dohse to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

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.

No action was necessary on this report.

PSI Third Quarter School Reports

Deputy Director Roubal presented the PSI Review of Examination Performance Reports for comparison for the period of July 1, 2021 through September 30, 2021, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained each of the reports relating to the national tests and the school reports.

No action was necessary on this report.

Real Estate Education Matters

Post-License Education Course Approval

Deputy Director Roubal presented for ratification the Post-License Education Course Approval Report, a copy of which is attached to and made a part of these minutes.

Post-License Education Instructor Approval

Deputy Director Roubal presented for ratification the Post-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 Roubal 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 Roubal 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 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.

After review, a motion was made by Dohse and seconded by Starman to ratify the five reports. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

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 2020-035 – Marjorie & Warren Phillips vs. Richard Henry Slosburg

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

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

Kindra Marie Fenceroy, Salesperson Applicant – Reappearance

Director Lemon presented exhibits which included: correspondence regarding Ms. Fenceroy's special appearance; a letter of explanation from Ms. Fenceroy's; an Order to Set Aside Conviction from Douglas County for Ms. Fenceroy; Chicago Police Report regarding a prior charge for Ms. Fenceroy's; excerpts from the August 19, 2021 Commission Meeting and the prior exhibit for Ms. Fenceroy's informal special appearance. A copy of said exhibit is attached to and made a part of these minutes. Ms. Fenceroy was not present.

Director Lemon explained that Ms. Fenceroy was not able to attend the informal special appearance due to a work issue. He explained the background regarding this issue when Ms. Fenceroy's appeared at the informal special appearance two months prior.

After discussion, a motion was made by Gehrki and seconded by Titus to allow Ms. Fenceroy to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Fenceroy must notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions and said broker shall confirm said

notification in writing to the Commission prior to the license being placed with said broker. Ms. Fenceroy must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of four years. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

Patrick McCarney, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. McCarney explained the situations regarding his criminal history.

After discussion, a motion was made by Gehrki and seconded by Starman to allow Mr. McCarney to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. McCarney must notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions and said broker shall confirm said notification in writing to the Commission prior to the license being placed with said broker. Mr. McCarney must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of four years.

After further discussion, a motion was made by Evnen and seconded by Titus to table the motion until next meeting to allow Commission Staff to review the pardon noted in the reports. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

2014-2021 Objectives – Quarterly Report

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

Director Lemon explained the progress of each of the objectives.

No action was necessary with regard to this matter.

Proposed Commission License Law – Law Legislation 2021

Director Lemon presented a legislative draft bill to change provisions relating to restrictions on unlicensed persons, applicability of the act, and broker's license applications. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that there were previously two separate legislative proposals and were consolidated into one bill for ease of sponsorship and timeframes.

There was discussion regarding the experience requirements to become a broker and the differences between geographical locations.

After discussion, a motion was made by Gehrki and seconded by Titus to authorize the Director to pursue leg as presented. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

Information Matters

ARELLO Investigator Conference (ARIS) – October 5-8, 2021 - Birmingham, AL- Report of Attendees

Director Lemon noted that Deputy Director Rut attended the ARELLO Investigator Conference.

The Attendee discussed her experience at the ARELLO Meeting.

No action was necessary on this report.

Errors and Omissions Loss Report – Third Quarter 2021

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2021. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

TAMMY BROOKHAUSER RESOLUTION

Director Lemon presented a resolution commemorating service as the Executive Director of the REALTORS® Association. A copy of said resolution is attached to and made a part of these Minutes.

Director Lemon explained that he planned on presenting the resolution at her retirement meeting on November 3rd.

A motion was made by Dohse and seconded by Gehrki that the resolution for Tammy Brookhauser be adopted. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and Ritter not participating or voting, being absent and excused.

Future Meeting Dates

November 18-19, 2021 - Country Inn and Suites, Lincoln
January 20-21, 2022 – Staybridge Suites, Lincoln
February 24-25, 2022 – Country Inn and Suites, Lincoln
March 17-18, 2022 – Country Inn and Suites, Lincoln
April 21, 2022 – Country Inn and Suites, Lincoln
May 19-20, 2022 – Country Inn and Suites, Lincoln
June 16-17, 2022 – Country Inn and Suites, Lincoln

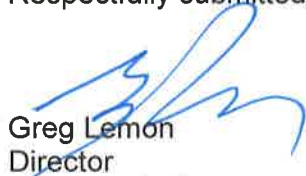
Recesses and Adjournment

At 10:18 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:32 a.m.

At 11:03 a.m., there being no further business to come before the Commission, a motion was made by Starman and seconded by Dohse that the meeting adjourn. Motion carried with Dohse, Gehrki, Starman, Titus and Evnen voting aye, with Bourne and 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 October 21, 2021, meeting of the Nebraska Real Estate Commission were available for inspection on November 2, 2021, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Sam Zach, Zag Land Company, Humphrey
Kim Zwiener, Sellstate Empire, Lincoln
Debbie Mitchell, Coldwell Banker NHS, Omaha
Leighun Brabec, Larabee School of Real Estate, Lincoln

