

South Carolina Real Estate Commission
Regular Meeting/Hearings
Wednesday, March 23, 2005, 10:00 AM
Kingstree Building, Room 108

Members Attending: Evelyn K. Young, Chairman; Manning E. Biggers; Buccie Harley; Robert R. Heos; Scott Moseley; and Steven Sloop

Members Absent: Tony Cox (Excused) and Jay Keenan (Excused)

Staff attending: Robert L. Selman, ADD; Lynne Rogers, General Counsel; Dwight Hayes, Office of General Counsel; Rick Wilson, Deputy General Counsel; Jay Pitts, Administrator; and Ann Parris, Administrative Assistant

Visitors: Byron King, South Carolina Association of REALTORS

Call to Order and Freedom of Information Statement

Chairman Young called the meeting to order at 10:05 A.M. and stated for the record the following Freedom of Information statement. Public notice of this meeting was properly posted at the Real Estate Commission office, Synergy Business Park, Kingstree Building, Columbia, South Carolina, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. A quorum was present at all times.

Approval of Minutes –November 17, 2004

Motion: Minutes of the November 17, 2004, meeting were approved as written on motion of Mr. Biggers and second of Mr. Harley. Unanimously passed.

Motion to Excuse Absences of Tony Cox and Jay Keenan

On motion of Mr. Sloop and second of Mr. Biggers, Messers. Cox and Keenan were excused. Both Mr. Cox and Mr. Keenan notified staff in advance that they would not be in attendance at today's meeting.

Lynne Rogers, General Counsel

Ms. Rogers addressed the Board regarding circumstances surrounding a real estate case, which is pending. She asked the Board to consider having a hearing officer hear this real estate case rather than the Board. She explained her reason for this request. She said that the Respondent, Ms. Bryant, stated she had mailed a document to all Board members. Ms. Rogers stated she thought it was probably Ms. Bryant's response regarding the case; however, after reading the document, Ms. Rogers stated the document might contain information that could be relevant to the case. She said if the Board agreed to this request, the Board would still be asked to make the decision about what sanctions, if any, would be imposed. Members of the Board would be furnished a transcript of the hearing. Ms. Rogers stated that rather than risk having issues about this matter, she would like to ask the Board to consider her request to use a hearing officer.

Motion: Mr. Harley moved that the Board agree to Ms. Roger's request to have a hearing officer hear Ms. Bryant's case. Mr. Biggers seconded and it unanimously carried.

Management Update – Jay Pitts, Administrator

Mr. Pitts stated he is settling in to the position as Administrator.

License renewals start in May. Staff is preparing for this task.

Some of the staff will be attending the Palmetto Real Estate Education Association (PREEA) in April and Real Estate Education Association (REEA) in June.

Manning Biggers will be representing the Commission at the ARELLO meeting in April.

Robert L. Selman, ADD

Mr. Selman stated he would like to request that the Commission meet Wednesday, June 15, 2005, rather than May 18, 2005, as previously planned. He stated there were two reasons he is making this request. Mr. Selman stated there might be several disciplinary actions to be heard in June and also the extra time would allow more time to develop the agenda. The other reason is that LLR has a leadership program of 16 individuals. These individuals are going through a twelve-month training period, which exposes them to the entire day-to-day operation of LLR so down the road they can step in, and fill jobs as needed. On June 15, the Professional and Occupational Licensing division (POL) has been asked to host this group and present an overview of how POL works. The SC Real Estate Commission was chosen as one of the Boards for a group to visit and witness a meeting, hearings, etc.

Three members indicated they might have a conflict with this date. Mr. Harley stated if the staff could set specific dates for meetings and not deviate from that schedule, it would be very helpful to the board members. Mr. Selman stated the staff tries to be respectful of board members' time and still meet the needs of the agency and the public. However, he stated, if there is not sufficient business for an agenda or there are no disciplinary hearings pending, there is no need to hold a meeting. He said it is a balancing act and the staff notifies board members as quickly as possible when meetings have to be changed.

Mr. Selman said this request for a June meeting is a special request but if the board cannot meet it, he certainly respects that. It was decided that the staff would poll the entire Board to determine if there would be a quorum for this date. Tentative date for the next meeting will be June 15.

Legislation - Mr. Selman stated that changes to Section 40-57-145(A)(11) in the real estate license law, which became effective January 1, 2005, has generated a lot of questions and concerns. This section refers to a commission or compensation being paid to an unlicensed individual for conducting activities requiring a license. He called on

Bryon King, SCAR, to address the matter. Mr. King said this section was changed in the statute that became effective January 1, 2005, to read "pays a commission or compensation to an unlicensed individual." The rest of the phrase stated "for conducting activities requiring a license as defined in this chapter" was deleted. Mr. King briefly discussed some problems the Kentucky Real Estate Commission was experiencing with the federal government because they had a similar statement in their statute. He stated that in order to prevent this type difficulty occurring in South Carolina, SCAR has introduced an amendment, which would restore the language in the statute to read as it was in 2004. It would read as follows:

Section 40-57-145 (A)(11)

(A) In addition to Section 40-1-110, the Commission may deny issuance of a license to an applicant or may take disciplinary action against a licensee who: (11) pay a commission or compensation to an unlicensed individual for conducting activities requiring a license as defined in this chapter.

Chairman Young thanked Mr. King for bringing this update to the Commission.

No Unfinished Business

No New Business

License Application

Patrick M. Argoe

Mr. Argoe appeared before the Board in the matter of his application to sit for the salesman's examination. His application was referred to the Board because of his criminal record. Mr. Argoe chose not to be represented by an attorney, nor did he have any witnesses.

Executive Session

Motion - After hearing Mr. Argoe's testimony, Mr. Heos moved that the Board enter executive session to deliberate. Mr. Biggers seconded the motion, which carried unanimously.

Return to Public Session – Mr. Harley moved that the Board return to public session. Mr. Biggers seconded the motion, which carried unanimously.

Request withdrawn: Mr. Argoe withdrew his request to sit for the salesman's examination. Board unanimously agreed to the withdrawal.

There being no further business, the meeting adjourned on motion of Mr. Moseley at 10:50 A.M.

The meeting reconvened on motion of Mr. Moseley and second of Mr. Harley at 11:05 A.M. for an additional item of business.

Two Resolutions - Mr. Biggers stated that a Resolution had been prepared in honor of Dan Ballou on behalf of his service to the State of South Carolina and the Commission from 1999 to 2004. This Resolution will be presented to Mr. Ballou.

Mr. Biggers stated that a Resolution had been prepared in honor of the service of Ralph Warren Norman, Sr. to the State of South Carolina and the Commission. Mr. Norman passed away March 20, 2005. He was an original member of the Commission and also served as Chairman. This Resolution will be present to Mrs. Norman.

Motion: Mr. Heos moved that the Commission approve both Resolutions and that they be made a part of the minutes of the March 23, 2005, meeting. Motion was seconded by Mr. Sloop and unanimously carried.

There being no further business, the meeting adjourned on motion of Mr. Heos at 11:15 A.M.

Exhibits

1)

RESOLUTION

Whereas, Daniel J. Ballou, served as a Member of the South Carolina Real Estate Commission from August 1999 to September 2004.

Whereas, during this period of time, the real estate industry experienced unprecedented growth, and the role and responsibility of the Commission was expanded as its purpose of public protection in real estate transactions became more vital and significant; and

Whereas, Daniel J. Ballou through his service on the Commission fostered a better understanding of the regulatory process in protecting the public without unduly inhibiting growth and innovation in the industry; and

Whereas, the citizens of South Carolina are better off for

his having served;

Now, Therefore, Be It Resolved that the Members of the South Carolina Real Estate Commission extend their gratitude to Daniel J. Ballou for his many contributions to the Commission and the citizens of South Carolina with best wishes for his continued good health and success; and that a copy of this Resolution be delivered to Daniel J. Ballou.

Signed by: Evelyn Young, Chairman; Jay Keenan, Vice Chairman; Manning E. Biggers, Tony Cox; Buccie Harley; Robert R. Heos; Scott Moseley; and W. Steven Sloop

2)

RESOLUTION

TO EXTEND THE SYMPATHY OF THE SOUTH CAROLINA REAL ESTATE COMMISSION TO THE FAMILY OF THE HONORABLE RALPH WARREN NORMAN, SR. OF ROCK HILL, SOUTH CAROLINA.

WHEREAS, Ralph Warren Norman, Sr., was the founder of Warren Norman & Company; and

WHEREAS, Ralph Warren Norman, Sr., was a charter member of The South Carolina Board of Realtors now known as The South Carolina Association of Realtors; and

WHEREAS, Ralph Warren Norman, Sr., was a charter member of The South Carolina Real Estate Board now known as The South Carolina Real Estate Commission; and

WHEREAS, Ralph Warren Norman, Sr., served as Chairman of The South Carolina Real Estate Board; and

WHEREAS, Ralph Warren Norman, Sr., has left a legacy of honesty and integrity to the real estate profession; and through his service on the Commission enhanced the effectiveness and accountability of the Commission; and

WHEREAS, the citizens of South Carolina are better off for his having served;

NOW, THEREFORE, be it resolved that the Members of the South Carolina Real Estate Commission extend their deepest sympathy to the family of Ralph Warren Norman, Sr.

BE IT FURTHER RESOLVED, THAT a copy of this resolution be recorded in the minutes of the Commission's meeting of March 23, 2005, and a copy be forwarded to the family of Mr. Norman.

Signed by: Evelyn Young, Chairman; Jay Keenan, Vice Chairman; Manning E. Biggers, Tony Cox; Buccie Harley; Robert R. Heos; Scott Moseley; and W. Steven Sloop