

South Carolina Real Estate Commission
Regular Meeting/Hearings
Wednesday, June 15, 10:00 AM
Kingstree Building, Room 201-03

Members Attending: Jay Keenan, Vice Chairman; Manning E. Biggers; Tony Cox; Buccie Harley; Robert R. Heos; and Steven Sloop

Members Absent: Evelyn Young (Excused) and Scott Moseley (Excused)

Staff attending: Robert L. Selman, ADD; Joe Harmon, Office of Investigations and Enforcement; Dwight Hayes, Office of General Counsel; Jay Pitts, Administrator; Ann Parris, Administrative Assistant; Rick Wilson, Deputy General Counsel; and Kristin McArthur, Legal Intern

Guests: Members of LLR Leadership Class; Tricia Tangney, Budget Analyst, Ways and Means Committee

Call to Order and Freedom of Information Statement

Jay Keenan, Vice Chairman, 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.

Vice Chairman Keenan asked that all Commission members and staff introduce themselves.

Approval of Minutes – March 23, 2005

Motion: Minutes of the March 23, 2005, meeting were approved as written on motion of Mr. Biggers and second of Mr. Sloop. Motion unanimously passed.

Motion to Excuse Absences of Evelyn Young and Scott Moseley

Motion: On motion of Mr. Harley and second of Mr. Cox, the absences of Ms. Young and Mr. Moseley were excused. Both Ms. Young and Mr. Moseley notified Board staff in advance that they would not be in attendance today.

Management Update – Jay Pitts

Robert L. Selman, ADD

Mr. Pitts introduced Bob Selman, ADD, to make a special introduction. Mr. Selman stated that the members of the LLR leadership development program were in attendance today to observe the Board meeting and hearing procedures. He gave a brief explanation of what the leadership development program is and its purpose. Mr. Selman stated that

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. Mr. Selman also introduced Tricia Tangney, Budget Analyst, Ways and Means Committee.

Agenda Changes - Mr. Pitts announced there would be an addition to the list of six applicants scheduled to appear before the Board. Elliott Evans would be added to the list of applicants.

There will be only one disciplinary case to come before the Board as one of the licensees scheduled cancelled.

Mr. Pitts reported that license renewals are underway and things are going well. He said this would be an ongoing process for several weeks.

Mr. Pitts stated that complaints are received daily at the Commission office. He said he reviews the complaints and then forwards them to the Office of Investigations and Enforcement (OIE) for review and action as needed. Mr. Pitts stated the IRC meets monthly to review all cases that come in to the Commission.

Mr. Pitts reported that he received a letter from Ginger Shafer, Operations Manager, Arizona-Kazakhstan Partnership Foundation, Inc. requesting permission to translate the SC real estate license law into Russian for their use in developing national regulatory language. Ms. Shafer stated she had done a lot of research and found the SC law is the most comprehensive and the easiest to read. He stated he conferred with Mr. Wilson, Advise Counsel, and permission has been granted. He said he has received a thank you letter from Ms. Shafer.

Coral Sands at Hilton Head –Dwight Trew, Developer Mr. Pitts stated the Commission has received a number of complaints from individuals about Coral Sands at Hilton Head. He stated there was a common theme in the complaints which was that customers were being given information before they bought time share that did not turn out to be the same after they purchased the time share. He stated that LLR staff met with their representatives and Coral Sands agreed they had some issues that had to be resolved. Mr. Pitts stated that Coral Sands volunteered to hire additional customer service staff. They also would have an onsite attorney, someone from outside, who would make sure that the information

that is given to the customers and the documents they have to sign are the same. Also, their company would look at the pool of agents to make sure that they get the best quality agents they can. Commission will continue to monitor the situation

Mr. Cox asked how it was working now that the Commission does not require time share agents to be licensed only the developer must be licensed. Mr. Keenan stated as a matter of information for the guests in attendance, that the individual time share person is not required to be licensed but the developer must be licensed. Mr. Keenan stated the Commission felt there would be more control if the developer was responsible rather than individual licensees. He said most of the developers in South Carolina are large companies such as, Fairfield, Marriott, etc.

Legislation – Bill 3478 – Mr. Pitts stated this bill addresses payments by licensees to unlicensed individuals. Bill stalled in the Senate LCI committee. Mr. Pitts asked Board members to review a position statement concerning this matter. The statement is as follows: “The SC Real Estate Commission supports H.3478 and because investigations are complaint driven will hold in abeyance, until the matter is resolved by the Legislature, action on complaints which might result in a charge of violation related to Section 40-57-145(A)(11); however, licensees should be cognizant of the fact that in any civil action the courts could apply the letter of the current law.” The copy of the statement distributed contained a typographical error which stated “the statute prior to January 1, 2004” and “the statute effective January 1, 2004” and it was corrected to read 2005.

Mr. Biggers asked if the bill specifically addresses individuals or does it address companies that have rebates? Mr. Selman said this bill simply says it may be grounds for disciplinary actions if a licensee pays someone a commission or compensation for doing something or conducting an activity for which they need a license.

Motion: Mr. Heos moved and Mr. Harley seconded the motion to accept the position statement as written. Motion passed unanimously.

Bill 3853 – This bill requires that the qualifications for licensure would include that a criminal record report be obtained and provided to the Commission from one or more reporting services designated by the Commission to provide criminal record reports. Applicants would be required to pay the designated reporting service for the cost of these reports. Bill passed the House but stalled in the Senate LCI committee.

Bill 3833 – This bill exempts real estate licensees from having to obtain a manufactured housing license. Passed and was signed.

No Old Business

No New Business

Engine Bill Amendments

Rick Wilson – Mr. Wilson stated that amendments to the LLR Engine Bill were submitted to the Legislature this session, but no action was taken. He briefly reviewed some of the changes and distributed copies to the Board for their review. Mr. Wilson stated any changes or suggestions they may have would be welcomed.

License Applications

Vince Coates, applicant Attorney: Stephen Welch, Greenwood, SC
Mr. Coates 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 a criminal record. Mr. Coates was represented by Attorney Stephen Welch of Greenwood, South Carolina. He had two witnesses: Gary Coates, Sr., Brother and Gerald Coates, Brother.

Executive Session

Motion: After testimony was completed, Mr. Heos moved that the Board enter executive session to deliberate. Mr. Sloop seconded the motion, which carried unanimously.

Return to Public Session

Motion: Mr. Cox moved and Mr. Biggers seconded the motion to return to public session. Motion carried unanimously.

Vice Chairman Keenan stated that during the Executive Session that there was no vote taken.

Motion: Mr. Sloop moved that Mr. Coates be granted permission to sit for the sales examination. Mr. Biggers seconded the motion and it was unanimously passed.

Fallon T. Hill

Attorney: Susan Oliver, Greenwood, SC
Ms. Hill appeared before the Board in the matter of her application to sit for the salesman's examination. Her application was referred to the Board because of an arrest record. Ms. Hill was represented by Attorney Susan Oliver of Greenwood, South Carolina. No witnesses.

Attorney Oliver stated that on behalf of Ms. Hill she would like to propose that the Board consider that once Ms. Hill completes her probation and the Board is notified by the parole officer that Ms. Hill would be allowed to sit for the examination.

Motion: Mr. Heos moved that Ms. Hill's request to sit for the real estate examination be held in abeyance until she meets the following stipulations: completes her prescribed probation period and obtain a sponsoring broker who would put into writing to the Commission that he/she would employ Ms. Hill . Notification that Ms. Hill has met these two conditions would have to be sent to the South Carolina Real Estate Commission before this request could be reviewed. Vice Chairman Keenan stated once the stipulations are met and the Commission is notified that if the Commission staff was satisfied that all stipulations were adequately met, Ms. Hill would not have to appear before the Board prior to sitting for the examination.

Mr. Biggers seconded the motion and it was unanimously carried.

Christopher S. Bunton

Mr. Bunton 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 an arrest record. Mr. Bunton was not represented by counsel.

Motion: Following Mr. Bunton's testimony, Mr. Biggers moved that since Mr. Bunton is still on probation until February 2006 that he meet the following stipulations: complete probation and obtain a sponsoring broker and then request another hearing before the Board. Mr. Heos stated he would like to amend the motion to include that Mr. Bunton provide documentation from the Department of Social Services indicating that the charges against him had been dropped by DSS. The motion was seconded by Mr. Harley.

Mr. Wilson explained to Mr. Bunton that the Board was trying to avoid denying his application at this time but were offering him an opportunity to withdraw his application now and resubmit his request once he has met the stipulations as outlined.

Mr. Bunton requested that his application be withdrawn at this time. Vice Chairman Keenan stated Christopher S. Bunton has been requested that his application be withdrawn at this time. The Board accepted this request.

Robert L. Lane

Mr. Lane 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 an arrest record. Mr. Lane was not represented by counsel. Witnesses for Mr. Lane were: Jeremy Bumgardner and Tommy James.

Executive Session

Motion: Mr. Sloop moved that the Board go into executive session to deliberate. Mr. Biggers seconded the motion. Motion carried unanimously.

Return to Public Session

Motion: Mr. Cox moved and Mr. Biggers seconded the motion to return to public session. Motion carried unanimously.

Vice Chairman Keenan stated there were no votes taken in executive session.

Mr. Lane requested permission to withdraw his application at this time. Vice Chairman Keenan stated the Board would accept Mr. Lane's request to withdraw his application.

Yukichi D. Latta

Ms. Latta appeared before the Board in the matter of her application to sit for the salesman's examination. Her application was referred to the Board because of an arrest record. Ms. Latta was not represented by counsel. Witness for Ms. Latta was Norma Latta, her mother.

Executive Session

Motion: Mr. Heos moved to go into executive session to deliberate. Mr. Cox seconded the motion. Unanimously carried.

Return to Public Session

Board returned to public session on motion of Mr. Biggers and second of Mr. Harley. Motion carried. Vice Chairman Keenan stated no votes were taken in executive session.

Motion: Mr. Heos moved and Mr. Biggers seconded that Ms. Latta be approved to sit for the sales examination upon receipt of letter from sponsoring broker saying that Ms. Latta would be employed. Motion carried.

Francis X. Maloney

Mr. Maloney 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 an arrest record. Mr. Maloney was not represented by counsel. No witnesses.

Robbie Boland, Licensing Manager, was sworn in and testified at Mr. Maloney's request to explain to him why he was declined approval to sit for the examination. Mr. Boland explained staff does not deny an applicant's request to sit for the examination that this was the procedure that is followed when question #10 on the sales application is answered in the affirmative. Question number 10 asks, "Have you ever been convicted of or pled guilty or nolo contendere to a crime (other than a minor traffic offense)? If yes, explain fully on an attachment to this application. Include all pertinent information such

as charges, date, location and sentences.” Mr. Wilson explained the procedures staff follows when an application is received to sit for an examination.

Motion: Mr. Biggers moved and Mr. Heos seconded that the Board go into executive session to deliberate. Motion carried.

Return to Public Session

Motion: Board returned to public session on motion of Mr. Sloop and second of Mr. Harley. Motion carried.

Vice Chairman stated no votes were taken in executive session.

Motion: Mr. Biggers moved that Mr. Maloney be approved to sit for the examination upon receipt of a letter from sponsoring broker that states that Mr. Maloney would be employed under that broker following successful passage of the examination. Second by Mr. Harley and motion carried.

Board recessed for five minutes at 2:20 p.m.

Board reconvened at 2:25 p.m.

Elliott J. Evans

Mr. Evans 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 an arrest record. Witnesses: Brook Taylor and Dawn Gladney. Mr. Evans was represented by Attorney Billy Monckton.

Vice Chairman Keenan asked Mr. Monckton if Mr. Evans was still on probation. Mr. Monckton responded yes. Vice Chairman Keenan called a recess and asked that Mr. Wilson, Board counsel, and Mr. Monckton consult. The hearing reconvened at 2:40 p.m. Mr. Monckton stated that Mr. Evans would like to withdraw his application at this time.

The Board agreed to allow Mr. Evans to withdraw his application.

There was discussion on adopting a policy regarding applicants who have been convicted of a crime and are currently on probation. Also discussion on a policy which would authorize the Chairman and the Administrator to review requests from applicants with criminal backgrounds and decide which ones should appear before the Board. Mr. Wilson stated this information could be incorporated into one policy.

Motion: Mr. Heos moved that the following policy be adopted by the South Carolina Real Estate Commission regarding applicants on probation and applicants who have pled guilty or nolo contendere to a crime and are requesting permission to sit for a real estate examination:

- (1) No person on probation will be eligible to appear before the Commission for licensure until that probation is completed and that person is no longer on probation.
- (2) The Chairman and the Administrator be authorized to review requests from applicants with a criminal background and decide which ones should appear before the Commission.

Motion was seconded by Mr. Harley and it unanimously carried.

Mr. Cox suggested that a statement be added to the Chairman's script which clearly instructs the applicant and attorney (if applicant is represented by counsel) that his/her case cannot be retried. Only information that is pertinent to the applicant's request for licensure will be heard.

There being no further business, the meeting adjourned at 4:00 P.M. on motion of Mr. Biggers.