

South Carolina Real Estate Commission
Minutes Regular Meeting/Hearings
November 16, 2005
10:00 A.M.

Members attending: Evelyn Young, Chairman; Jay Keenan, Vice Chairman; Steve Sloop, Secretary; Manning Biggers; and Scott Moseley
Absent: Tony Cox (Excused); Buccie Harley (Excused); and Robert Heos (Excused)

Staff attending: Jay Pitts, Administrator; Ann Parris, Administrative Assistant; Beau Tiller, Manager, Education; Dwight Hayes; Office of General Counsel; and Shirley Robinson; LLR Advice Counsel; and Robert Selman, ADD

Other: Laura Stroman, South Carolina Association of Realtors

Chairman Young called meeting to order at 10:00 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, Kingtree 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.

Minutes – June 15, 2005

Minutes of the June 15, 2005, meeting were approved unanimously as written on motion of Mr. Biggers and second of Mr. Sloop.

Vote to Excuse Absences of Board Members:

Mr. Keenan moved to excuse Tony Cox, Buccie Harley and Robert Heos from today's meeting. Motion was seconded by Mr. Moseley and unanimously passed.

Management Update – Jay Pitts, Administrator

Newsletters – Mr. Pitts stated that in a recent LLR management meeting, the pros and cons of communicating information to licensees via the Internet. He said it was not necessary to publish an electronic newsletter as such but to use the web site as a means of communicating up-to-date information as needed. He said editing an electronic newsletter involves a tremendous amount of staff time; therefore, it may be much more efficient to eliminate a newsletter and use the web site as a tool for disseminating pertinent information. Mr. Pitts stated the staff would keep the web site current with information on a need to know basis and when and if it became necessary to send a special notification that could be done also.

Mr. Keenan stated if the law requires that a public reprimand must be made, would publishing it on the web site qualify? Mr. Pitts stated disciplinary actions are already listed on the web site.

Staffing – Mr. Pitts stated as a matter of information that plans are underway to bring Ed Coleman, Investigator, Appraisers Board, back to the second floor where he will be responsible for programmatic areas of the Appraisers Board. Mr. Pitts

stated this would free up some of the Commission staff such as, Beau Tiller, to explore needs for education and other matters. Mr. Coleman has been working in the OIE department since it began.

Continuing Education Task Force – Mr. Pitts stated he is serving on a Continuing Education Task Force which met for the first time last week. He said Ms. Stroman and Mr. Sloop are also on the committee. Mr. Pitts stated the purpose is to study continuing education to see what is needed. He said there was discussion on exit exams, increased hours, how to strengthen courses to make them more meaningful, shorter courses that have pertinent titles and even the question “Do we need Mandatory Continuing Education?”

Mr. Sloop stated the members would do some research and maybe some surveys before the next meeting, which is scheduled for December. He said it is an ongoing process and the committee will report back to the Commission.

Laura Stroman of the South Carolina Association of Realtors stated that Mr. Pitts and Mr. Sloop had covered the purpose for the task force and what took place in the first meeting. She said there would be more information gathering that would be discussed at the next meeting to see if there is a need to change or what can be done to increase the professionalism of the licensee.

Mr. Pitts stated currently there are 38,250 licensees. He said the Commission is seeing an increase in numbers and staff is a busy as they have ever been. He said it is a matter of a few people doing a lot of work.

Ms. Young asked if when a licensee transfers from one company to another does that licensee have the option of faxing in the application and using a credit card to pay the transfer fee. She said it would save a tremendous amount of time for the licensee, as they would not have to drive to the Commission office to complete this process. Mr. Pitts stated he would look into this matter for Ms. Young.

2006 meeting dates – Mr. Pitts distributed a copy of the proposed 2006 meeting dates. He asked Commission members to check their calendars and notify staff of any conflicts. Dates are as follows:

January 18; March 15; May 17; July 19; September 20; November 15

Engine Bill – It was decided to move the agenda item of the Engine Bill to the end of the agenda. At that time, Bob Selman, Assistant Deputy Director, should be in attendance to discuss this matter. Chairman Young stated she would like to know if there is language in the proposed bill that limits the terms of board members for the Commission or for any of the boards? Mr. Pitts stated he would get the answer to that question. He said that Mr. Selman is the expert on the Engine Bill and should be here later to address any questions.

New Business – Election of Member At Large

Mr. Biggers nominated Mr. Keenan and Mr. Moseley seconded the motion. The Board unanimously elected Mr. Keenan.

Election of Officers

Chairman Young stated if there were no objections, the election of officers for a one-year term would be held as an open election.

Nominations:

Chairman: Mr. Sloop nominated Mr. Keenan for the position of Chairman. Mr. Biggers moved to close nominations and elect by acclamation. Mr. Moseley seconded. Mr. Keenan elected by acclamation.

Vice Chairman: Mr. Keenan nominated Mr. Biggers for the position of Vice Chairman and Mr. Sloop seconded the motion. Mr. Biggers elected unanimously.

Secretary: Mr. Moseley nominated Ms. Young for the position of Secretary. Mr. Biggers moved to close nominations and elect Ms. Young by acclamation. Mr. Keenan seconded and Ms. Young was elected by acclamation.

Chairman Young stated elections were held a little later this year as the Commission did not meet as frequently as normal. This was done in cooperation with the Governor asking Boards to conserve on gasoline and meet only when necessary. Chairman Young stated the Board was in agreement with this request.

Mr. Keenan moved that the business meeting be closed and Mr. Moseley seconded. Mr. Biggers asked if the meeting would resume for discussion on the Engine Bill following the conclusion of the License Application Appeals. Chairman Young said the meeting would reconvene at that time. Recess was taken at 10:40 a.m. and reconvened at 10:50 a.m. to commence with the License Application Appeals.

License Application Appeals

Elliott J. Evans

10:50 a.m.

Mr. Evans appeared before the Board in June 2005 to apply to sit for the real estate sales examination. He withdrew his application at that time as his probation period was not completed and he was advised he could petition the Board to return once his probation was completed and he could submit proof of the completion. Mr. Evans' probation was completed on November 10, 2005, and he submitted a copy of the Court of General Sessions Order of Termination to the Board. Mr. Evans was represented by Attorney William H. Monckton and offered two witnesses, Dawn Gladney, a former supervisor and his wife, Brook Evans.

Executive Session

Chairman Young stated that Mr. Evan's case was submitted to the Board and that they would take it under advisement. She called for a motion to go into executive session.

Motion: Mr. Biggers moved to go into executive session for deliberation. Motion seconded by Mr. Sloop and unanimously carried. Time: 11:10 a.m.

Return to Public Session

Motion: Mr. Biggers moved to come out of executive session and seconded by Mr. Sloop. Time: 11:20 a.m.

Motion: Mr. Moseley moved that Mr. Evans be granted permission to sit for the sales examination. Mr. Keenan seconded the motion. Motion passed unanimously.

Chairman Young read the following statement:

The decision we announce today expresses only the basic elements of our ruling in this case. Counsel or staff for the Board will prepare a document which more fully expresses our conclusions in the appropriate language

David I. Lucas

11:20 a.m.

Mr. Lucas appeared before the Board requesting to have his broker's license reinstated which has been revoked by the Commission in 1992. Attorney Jerry Leo Finney represented Mr. Lucas and there was one witness, Victor Malloy Newsmith, III.

Executive Session

Chairman Young stated that Mr. Lucas' case was submitted to the Board and that they would take it under advisement. She called for a motion to go into executive session.

Motion: Mr. Biggers moved to go into executive session for deliberation. Motion was seconded by Mr. Moseley. Motion unanimously carried. Time: 11:40 a.m.

Return to Public Session

Motion: Mr. Biggers moved to come out of executive session and Mr. Moseley seconded. Motion carried unanimously. Time: 11:45 a.m.

Motion: Mr. Keenan moved that the Board would allow Mr. Lucas to pursue his real estate sales license with the stipulation that Mr. Lucas must complete all required education courses required under the law and then he would be allowed to sit for the sales exam. He must be licensed under a broker-in-charge for five years after he is issued a sales license. At the end of five years, Mr. Lucas may apply to sit for the broker-in-charge exam. Mr. Biggers seconded the motion and it was unanimously carried.

Chairman Young read the following statement:

The decision we announce today expresses only the basic elements of our ruling in this case. Counsel or staff for the Board will prepare a document which more fully expresses our conclusions in the appropriate language.

Mr. Finney stated this was his first and probably last time he would ever appear here as his practice of the law is in other areas. He stated he wanted to say the Commission has a very professional board and conducted themselves extremely well. He said it was an honor to be here.

Jenny L. Mitchell

11:50 a.m

Ms. Mitchell appeared before the Board requesting that she be allowed to sit for the property manager's exam in order to have her license reinstated. Ms. Mitchell was previously licensed as a property manager. Counsel did not represent Ms. Mitchell. She had one witness, Michael C. Cockrell.

Executive Session

Chairman Young stated that Ms. Mitchell's case was submitted to the Board and that they would take it under advisement. She called for a motion to go into executive session.

Motion: Mr. Sloop moved to go into executive session for deliberation.

Mr. Biggers seconded the motion and it unanimously carried. Time: 12:15 p.m.

Return to Public Session

Motion: Mr. Keenan moved to come out of executive session and Mr. Biggers seconded the motion. Motion carried unanimously. Time: 1:10 p.m.

Ms. Jenny L. Mitchell withdrew her request for the reinstatement of her property manager's license.

Victor Rivera

1:20 p.m.

Mr. Rivera appeared before the Commission to request that the Commission reinstate his broker's license. His license was revoked on December 15, 2002. Counsel did not represent Mr. Rivera nor did he offer any witnesses. Mr. Dwight Hayes presented the Commission's case.

Executive Session

Chairman Young stated that Mr. Rivera's case was submitted to the Board and that they would take it under advisement. She called for a motion to go into executive session.

Motion: Mr. Keenan moved to go into executive session for deliberation.

Mr. Biggers seconded motion. Motion unanimously carried. Time: 1:55 p.m.

Return to Public Session

Motion: Mr. Biggers moved to come out of executive session and Mr. Moseley seconded the motion. Motion carried unanimously. Time: 2:05 p.m.

Motion: Mr. Keenan moved that in the case of Victor Rivera that the Board would allow Mr. Rivera to sit for the real estate sales exam provided he completes all of the appropriate education courses and that if in fact if he passes all the courses and passes the

exam that he may be licensed as a real estate salesman in the State of South Carolina with the stipulation that he would hold that license for five years and work under a broker-in-charge. If at the end of five years if he so wishes, he can apply and take the broker's examination. Mr. Biggers seconded the motion and it unanimously carried.

Chairman Young read the following statement:

The decision we announce today expresses only the basic elements of our ruling in this case. Counsel or staff for the Board will prepare a document which more fully expresses our conclusions in the appropriate language

Melissa A. Wells

2:10 p.m.

Mr. Wells appeared before the Commission to request that the Commission reinstate her property manager's license. Her license was revoked on September 17, 2003. Ms. Wells was not represented by counsel nor did Ms. Wells present any witnesses.

Executive Session

Chairman Young stated that Ms. Wells' case was submitted to the Board and that they would take it under advisement. She called for a motion to go into executive session.

Motion: Mr. Biggers moved to go into executive session for deliberation.

Motion was seconded by Mr. Moseley. Motion unanimously carried. Time: 2:35 p.m.

Return to Public Session

Motion: Mr. Biggers moved to come out of executive session and Mr. Sloop seconded the motion. Motion carried unanimously. Time: 2:45 p.m.

Motion: Mr. Biggers moved that Melissa A. Wells be granted the privilege of sitting for the examination for her property manager's license provided she meets all the proper education requirements and upon passing the examination, she could receive her license. Motion was seconded by Mr. Moseley and unanimously passed.

Chairman Young read the following statement:

The decision we announce today expresses only the basic elements of our ruling in this case. Counsel or staff for the Board will prepare a document which more fully expresses our conclusions in the appropriate language

Chairman Young stated the hearings for the License Application Appeals were complete and that the Commission meeting would reconvene to discuss the Engine Bill. She stated Bob Selman was available to discuss this matter.

Engine Bill

Mr. Selman stated the Engine Bill basically is the LLR framework bill that was passed in 1996 and this was simply an update to delete things that are not relevant anymore and

adding things that are relevant. He said the Engine Bill is a default practice act or supplemental practice act which means that it picks up on issues that aren't addressed in the actual practice act. He stated if there is a conflict between the individual practice act and the statute, then the individual statute controls. The Engine Bill does not trump any individual practice act.

Mr. Selman stated there had been some controversy surrounding this bill but that by meeting with members of associations, lobbyists and their clients, many questions and concerns have been satisfied. It appears that a lot of the concern was because of misunderstandings. He said the biggest concern had to do with board members serving on regulatory boards and association boards at the same time. He said the language addressing this has been modified because the language was unclear as to what LLR meant. The language has been modified to say that if you sit on a regulatory board you cannot be an officer of the regulatory board and an officer of the same association that you regulate. Mr. Selman stated that the bottom line is that this bill changes nothing in the way the Commission operates.

Mr. Selman stated LLR has the support of many associations, lobbyists and boards already, and he would like to be able to say that the South Carolina Real Estate Commission supports the bill as well. It was decided that board members would take the Engine Bill home to study and review it and would be ready to discuss it and make a statement at the January 18, 2006 meeting.

Mr. Biggers reported that he recently presented the Board's Resolution to the Warren Norman family. Mr. Norman, former Chairman of the Commission, recently passed away. His family appreciated the plaque. He also stated he presented the Board's Resolution to former public member, Dan Ballou and Mr. Ballou was also extremely appreciative of this gesture.

No further business, the meeting adjourned at 3:00 pm.