

Minutes
South Carolina Real Estate Commission
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 201-03
January 17, 2007

Members attending: Jay Keenan, Chairman; Manning Biggers, Vice Chairman; Tony Cox; Buccie Harley; Robert Heos; and Scott Moseley

Members absent: Steve Sloop (excused); Evelyn Young (excused)

Staff attending: Jay Pitts, Administrator; Michael Anderson; Office of Investigations and Enforcement; Ann Parris; Shirley Robinson, LLR Staff Counsel; and Rick Wilson, LLR Staff Counsel.

Chairman Keenan called the meeting to order at 10:05 AM and wished everyone in attendance best wishes for a happy and successful New Year. Chairman Keenan stated for the record the following South Carolina 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 30-4-8- of the South Carolina Freedom of Information Act. A quorum was present at all times.

Board members and staff introduced themselves.

Minutes – September 20, 2006

Motion: Mr. Biggers moved and Mr. Cox seconded the motion that the minutes of September 20, 2006, be approved as presented. Motion unanimously carried.

Members Absence

Chairman Keenan stated that Ms. Young and Mr. Sloop had notified staff they would not be in attendance due to medical reasons. He said “get well” cards are being circulated for members’ signature and that staff would mail cards to Ms. Young and Mr. Sloop following today’s meeting.

Motion: Mr. Harley moved and Mr. Biggers seconded the motion to excuse the absences of Ms. Young and Mr. Sloop.
Motion unanimously carried.

Chairman Keenan stated that the license appeals applications on the agenda would be moved forward and the business items would be addressed at the conclusion of the appeals. There was no objection.

License Appeals Applications

Lynn Becker

10:15 AM

Ms. Becker appeared before the Board seeking approval to sit for the sales license examination. There were six witnesses. She was not represented by counsel. Ms. Becker presented her case. At the conclusion of her presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

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Executive Session

10:40 AM

Motion: Mr. Heos moved and Mr. Biggers seconded the motion that the Commission go into executive second. Motion unanimously carried.

Return to public session

10:45 AM

Motion: Mr. Biggers moved and Mr. Harley seconded that the Board come out of executive session.

Chairman Keenan stated while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any member cared to make.

Motion: Mr. Cox moved that the Board allow Ms. Becker's request to sit for the sales examination. The motion was seconded by Mr. Harley and unanimously carried.

Calvin C. Reynolds, III

10:45 AM

Mr. Reynolds appeared before the Board seeking approval to sit for the sales examination. There were two witnesses. He was not represented by counsel. Mr. Reynolds presented his case. At the conclusion of Mr. Reynolds's presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

Executive Session

11:15 AM

Motion: Mr. Biggers moved and Mr. Heos seconded the motion that the Board go into executive second. Motion unanimously carried.

Return to public session

11:22 AM

Motion: Mr. Biggers moved and Mr. Moseley seconded the motion that the Board come out of executive session.

Chairman Keenan stated while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any member cared to make.

Motion: Mr. Harley moved and Mr. Biggers seconded the motion that the Board allow Mr. Reynolds's request to sit for the sales examination. Motion carried.

Chairman Keenan called for a brief recess at 11:25 AM and reconvened the hearings at 11:35 AM.

At this time, Mr. Wilson, LLR Counsel, had to leave for another meeting and Ms. Robinson assumed the role of staff advice counsel.

Freddie Rowe

11:35 AM

Mr. Rowe appeared before the Board seeking approval to sit for the sales examination. Mr. Rowe had one witness. He was not represented by counsel.

Mr. Rowe stated he did not receive the letter from the Real Estate Commission (due to an incorrect address that the Commission had on record) to allow him time to really prepare for today's hearing. Chairman Keenan offered Mr. Rowe the opportunity to reschedule his hearing if he felt he was not totally prepared to present his case. Mr. Rowe stated that he would like to continue today since he was already here.

It was determined that the Commission had not received an application from Mr. Rowe. The Board members indicated that in order to make a fair decision they needed to have an application from Mr. Rowe. Mr. Pitts said if it pleased the Board, he suggested that Mr. Rowe complete an application while he was here today and then come back before the Board at the March 21 meeting to present his case. Chairman Keenan stated the Board wants to be fair to Mr. Rowe and said he thought Mr. Pitt's suggestion would be in Mr. Rowe's best interest. Mr. Rowe was granted permission to withdraw his application at this time.

Aaron M. Youmans

11:50 AM

Mr. Youmans appeared before the Board seeking approval to sit for the sales examination. There were two witnesses. He was not represented by counsel. Mr. Youmans presented his case. At the conclusion of his presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session. Chairman Keenan stated that no determination would be made while in executive session.

Executive Session

12:20 PM

Motion: Mr. Biggers moved and Mr. Cox seconded the motion that the Board go into executive second. Motion unanimously carried.

Return to public session

12:25 PM

Motion: Mr. Harley moved and Mr. Biggers seconded the motion that the Board come out of executive session.

Chairman Keenan stated while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any member cared to make.

Motion: Mr. Heos moved to allow Mr. Youmans to sit for the sales examination. Mr. Biggers seconded the motion and it unanimously passed.

Jay Pitts, Management Update

Next Board meeting will be March 21, 2007. Mr. Pitts asked if there was anyone who had a conflict to notify the office.

Manning Biggers – ARELLO Meeting - Mr. Biggers reported on the ARELLO meeting he attended in September. He said it was a good meeting and a lot of changes were taking place within ARELLO. Debbie Campagnola is the new CEO and Fran Whitley, NC, is the new President. Headquarters has been moved from Alabama to Colorado and the fiscal year has been changed to a calendar year as of January. Mr. Biggers stated that the international membership is increasing.

Task Force – Following the January meeting, a task force was established to study the development of a mandated course. Report may be made at the March meeting.

Mr. Pitts stated as a matter of information that the total number of licensees as of this morning is about 44,000.

There was some discussion on the need to cancel meetings when conditions occur when hearing applicants call at the 11th hour to say they are not coming for the hearing. Chairman Keenan stated neither he nor staff wants to inconvenience board members but it is not prudent to bring members in for little business or just one hearing. Mr. Pitts stated staff has instituted a new procedure regarding applicants requesting hearings. When the applicant cannot be approved at staff level, a certified letter is sent to the individual which contains pertinent hearing information as well as information which states that the applicant must notify the Commission by a certain date if he/she will be in attendance on that date. They are told if they do not contact the Commission, his/her name will not be on the agenda. Staff also calls the individual ten days before the meeting to double check attendance.

Time Share Legislation – Chairman Keenan suggested that agenda items 5 (Legislation) and 7 Old Business (Time Share Ad Hoc Committee report) be combined.

Ad Hoc Committee Report – Tony Cox reported that the membership of the committee had been established but due to holidays, etc. there has not been a meeting to date. He said he and Mr. Pitts have been coordinating an agenda and would definitely have a report by the next meeting. Mr. Cox stated the legislation would increase the rescission period from five to ten days.

Mr. Pitts stated the members were given a copy of the legislation (Bill 3113) that Mr. Cox just discussed. He said the legislation has been filed, but he was not sure if the Board should take a vote today as to whether to support this legislation or wait until after the committee report in March.

Chairman Keenan inquired as to the status of the legislation and where it was on the legislative calendar. Mr. Cox stated it was new legislation which was introduced prior to the beginning of the session. Mr. Pitts said that the legislation has been referred to the LCI committee on the 9th but the Commission has not been notified of when it will be taken up. Chairman Keenan stated he thought the Commission should take a position on it. Board members discussed the change in the rescission period and the attention it would receive from the media. Mr. Pitts stated before this legislation was prefiled the media knew about and called the office with inquiries.

Mr. Anderson said most of the time share complaints deal with a variety of misrepresentations. He said people sign contracts without reading them and then find out they did not get what they were promised. He said his staff is monitoring the number of complaints, type of complaint, where they come from and how they should be dealt with.

Following discussion, Chairman Keenan stated the Commission is well aware of the time share industry in South Carolina and will receive this as information, but will wait for the report from the Commission's Time Share Ad Hoc Committee before they take a position on this matter.

Mike Anderson, new Chief of Investigations was introduced.

Mr. Anderson discussed complaint procedures, Investigative Review Committee composition and role in disciplinary matters, Consent Agreements, investigative staff and their duties and qualifications, and reaching and maintaining a level of consistency in the way disciplinary matters are handled. He also outlined his work experience and qualifications for his position as Chief of Investigations.

Chairman Keenan discussed the inconsistencies he sees in Consent Agreements and inquired if there was a way to research old Consent Agreements that deal with similar offenses. Mr. Anderson said that the Board now posts Consent Agreements on their web sites but that older Consent Agreements would have to be looked up in the books that the Boards keep.

Mr. Pitts stated that one of the small changes that we have talked about is having the Chairman sign the Agreement before it is sent to the respondent.

Ms. Robinson stated that cannot be done as it must be signed by the State's Attorney and Respondent before it can be sent to the Chair for signature. Chairman Keenan stated that often times he has received Agreements that do not have the State Attorney's signature on it. Ms. Robinson stated it is not a Consent Agreement unless it is agreed to by the parties and that is the State and the Respondent before it goes to the Chairman.

Mr. Anderson explained the process that the Consent Agreement goes through and how it eventually is posted on the Board web site. Chairman Keenan asked if there was a Sunset provision as he has received some Consent Agreements that were dated 60 days prior to the time he received it. Mr. Anderson stated there is a tracking system in place now that should eliminate this problem.

There was some discussion on paper newsletters that were discontinued a few years ago. Disciplinary actions were listed in the newsletters but now are listed on the web site. Consensus was that paper newsletters were favored over electronic publications. Mr. Pitts stated that eliminating paper newsletters was not an administrative decision. He said this is an electronic age and it may be that in the future there may be mandated online renewals. He said the staff is working on a plan to capture email addresses of licenses. Mr. Pitts said that the last renewal period that the Nursing Board had strongly encouraged online renewal and

went to almost 100% of renewals online. Mr. Pitts said Boards are being told to look at Nursing and do what they have done with renewals.

Chairman Keenan stated that since the statute requires that if a licensee changes his/her address, it is mandated that they have to notify the Real Estate Commission of that change. He asked if the same policy could be implemented for email addresses.

Tony Cox asked if the Board could make that a policy statement now that a licensee would have to have an email address and if they change it, they have to notify the Commission. Chairman Keenan stated that it could be added to the application. Mr. Pitts stated he would draft some policy language with the understanding that this is the direction in which the Commission is headed. He stated he liked that the Board is being proactive as other Boards are talking about it and it would be good to be able to say here is what the Real Estate Commission is doing.

Motion: Mr. Cox moved and Mr. Biggers seconded the motion that the Commission require that all licensees have an email address just as they have an office location address and if their email address changes, they would be required to notify the Commission and that the email address would have to be valid and that all license renewals take place online.

Ms. Robinson stated she does not know if the Commission is technically set up to handle this. She said she thought the Board was going to have Jay Pitts to do a policy statement that you look at and maybe adopt as a policy at a later meeting. Mr. Biggers said amend the motion by removing the online renewal part but leave the email requirement.

Amended Motion: Mr. Cox amended the motion to say: Jay Pitts will prepare a policy statement that will require all licensees to have a valid email address. A valid email address would show up on the application and if the email address changes, just as their license location if they change it, they must notify the Commission. Motion unanimously carried.

Mr. Pitts stated he wanted to recap what he had heard today regarding Consent Agreements.

- 1) Look at old Consent Agreements to see how they are written
- 2) Look particularly at penalties, fines and reprimands.

Chairman Keenan stated the Consent Agreements need to be a little better written. Ms. Robinson asked Chairman Keenan did he want more specific information about the alleged misconduct was. He said it needs to be a little more specific and clearer.

Mr. Harley said when the newsletter was printed it included a summary not the entire Agreement. All we need is just a few sentences that states what the infraction was. Mr. Pitts stated the entire Order goes up on the web page and you can read the entire Order.

Mr. Pitts said he has been talking with Byron King, SCAR, about this very issue. He said SCAR would like to publicize summaries of those Orders. Ms. Robinson asked why the associations could not do that. She said it would be like the Bar Association whenever the Supreme Court issues a disciplinary action. Mr. Pitts said the summarization of those Order

is key. He said he did not have a problem with them summarizing the Orders but he wanted to make sure it was absolutely correct.

Mr. Heos asked if the Commission was going to provide the Association with this information or will they pick it up off the web site? He said he did not think the Commission should provide any organization with the information as they can get it from the web site as it wide open. Mr. Pitts said the Commission almost has to provide it since it is public information and can be requested under the Freedom of Information Act.

Tony Cox said he had one more item of concern. In the statute Section 40-57-80 (2) and (4) Qualifications for licensure, reads as follows:

(2) have attained the age of eighteen if applying for a license as a salesman or property manager, and (4) have graduated from high school or hold a certificate of equivalency

Mr. Cox said in today's real estate world is this adequate. Chairman Keenan stated he agreed with Mr. Cox's concern personally, but any change would have to be done legislatively and he was not sure this could be done at this time. Mr. Cox said he would like to see if there is something the Board could do in concert with SCAR and see if education requirements could be increased. He said he did not know what the answer was possibly a two-year degree or a college degree or an associate degree.

Following a discussion, Chairman Keenan appointed an Ad Hoc Committee to study this matter. He appointed Steve Sloop to Chair the committee and Scott Moseley and Manning Biggers would serve on the committee.

There being no further business, the meeting adjourned at 1:45 PM.

Submitted,

Jay Pitts
Administrator