

LLR – REAL ESTATE COMMISSION
Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina 29210
MINUTES

Wednesday, March 17, 2010

10:00 A.M.

Welcome And Call To Order:

Tony Cox, Chairman, called the regular meeting of the Real Estate Commission to order at 10:00 a.m. Other members present for the meeting included: Manning Biggers, Vice Chairman; Evelyn Young, Secretary; Carl Edwards; Buccie Harley; R. Scott Moseley; Sarah Takacs and Dianna Brouthers.

Tony Cox, Chairman, announced that the meeting was held in accordance with §30-4-80 of the South Carolina Freedom of Information Act by notice mailed to all requesting persons, organizations, and news media. In addition, notice was posted on the bulletin boards at the main entrance of the Kingstree Building. Staff responded affirmatively. It was noted that all conversations in the meeting room were being recorded and portions may be made public in accordance with the SC Freedom of Information Act. A quorum was present at all times.

Staff members participating in the meeting included: Sheridan Spoon, Assistant Deputy General Counsel; Jamie Saxon, Hearing Advisor; Daniel Grigg, Hearing Advisor; Paula Magargle, Staff Attorney; Jay Pitts, Administrator; Beau Tiller, Education Manager; Angela Scott, Administrative Assistant; Robert Selman, Legislative Liaison; Bill Plunkett, Investigations; Christine Cortright, Court Reporter; Dwight Hayes, Office of Licensure and Compliance; Annette Disher, Office of Licensure and Compliance; Rosalind Bailey-Glover, Office of Licensure and Compliance; and Lisa Hawsey, Administrative Assistant.

Others present participating in the meeting included: Michael Connor; Benjamin L. Johnston; Mr. Shawn A. Williams; and Shawn A. Williams.

Pledge of Allegiance:

All present recited the Pledge of Allegiance.

Introduction of Board Members and All Other Persons Attending:

The Board members, staff and members of the public attending the meeting introduced themselves.

Member Absences

None

Minutes – January 20, 2010

MOTION:

Mr. Biggess moved to accept the minutes of the January 20, 2010, meeting as written. Mr. Young seconded the motion and it unanimously carried.

Approval of Agenda – March 17, 2010

Mr. Pitts informed the Commission that Mr. Randy Bryant, Assistant Deputy Director has requested that a representative from the Office of General Counsel; Office of Investigations; and Office of Licensure be placed on the Board and Commission's Agenda to present reports or other pertinent and appropriate information. These reports will be a standing item for all agendas in future.

Mr. Pitts reported that Mr. Dwight Hayes would be speaking with the Commission regarding High School Education Requirements.

Mr. Pitts reported that Ms. Mary S. Marino consented and Byron A. Barmand withdrew his application.

Chairman's Remarks:

Tony Cox

Chairman Cox thanked everyone for attending the meeting.

Administrators Remarks:

Jay Pitts

Update on Renewals and Licensing:

Mrs. Roz Bailey-Glover reported the licensing numbers as of today.

Total Licensees: 47,780 (Includes Inactive Licensees)

Brokers: 5313

Brokers In Charge: 8119

Inactive Brokers: 2,277

Inactive Property Managers: 603

Inactive Salespersons: 9,930

Property Managers In Charge: 966

Property Managers: 1,160

Salesman: 20,924

Salesperson Provisional Licensees: 891

Mrs. Bailey-Glover reported several licensees are on the select in-active status.

Chairman Cox asked whether a staff could do comparisons of inactive licensees from 2009 to 2010.

Mrs. Brouthers asked the difference between select inactive and the traditional inactive.

Mrs. Bailey-Glover stated that select inactive is used when a licensee has completed Transfer Form 200 and attached a written letter requesting their license be placed in an inactive status. Therefore, it is placed on a select inactive status.

Update on Renewals:

Mrs. Annette Disher reported the number of licensing renewals as of today.

Total Active Licensees: 36,299

Time Share: 76

Total Select Inactive: 10,814

Total Population: of 47,200

Mrs. Disher reported that the Online Renewal would open on April 1, 2010. Renewal Notices and E-Blasts will be sent out on March 31, 2010. E-Blasts will go out to all licensees that have an e-mail address on file with the Real Estate Commission. Posted on the website is a list of licensees who renewed in 2008 and 2009. Also, posted on the website is a list of 2010 continuing education requirements.

Mr. Pitts reported that the Association requested clarity regarding one-year renewals. As a result, staff was able to post on the website continuing education requirements; a disclaimer statement; and an alphabetical listing of all licensees, which renewed in 2008 – 2009 and 2009-2010. The information was posted on March 16, 2010, and encourage the Commission to review the information.

Mr. Edwards asked how many licensees e-mail address is on file. Mr. Disher stated approximately 17,000.

Mrs. Brouthers stated some licensees have a 2011 expiration date.

Mrs. Disher stated prior to the Office of Licensure and Compliance being established the Real Estate Commission renewed yearly and some of the licensees received a 2011 license because they were in a 2009 cycle. The licensees, who have a license that expires in 2011, would not be penalized and would be renewed in 2011.

Number of Investigations and Open Complaint Cases:

Mrs. Wolfe reported the number of investigations and open complaints cases as of today:

Complaint Cases Received as of January 2010 – March 2010: 141 Open Complaint Cases, which includes 54 Timeshare Complaints: 86 Complaints Received 106 Complaint received in 2009

Mrs. Wolfe reported that Tony Kennedy would be doing Real Estate investigations as well as Timeshare investigations.

ARELLO Conference:

Jay Pitts reported that the ARELLO Conference would be held April 7th - 10th, 2010, in Colorado Springs, Colorado. He reported that Mr. Cox, and Mr. Briggers are planning to attend and one other Commission member may attend.

Unfinished Business:

Legislative Update

Mr. Pitts reported The PILOT Project – Bill 4546 is a joint resolution introduced by eleven representatives to establish the self-directed semi-independent agency pilot project to create certain professional and occupational licensing boards as separate and distinct individual state agencies.

State Ethics Commission

Mr. Pitts presented the Commission with the State Ethics Commission 2010 Statement of Economic Interests (SEI) Form. Forms must be completed on-line and received within five days of the April 15, 2010, deadline. Late filing and failing to file will result in penalties starting at One Hundred (\$100.00) dollars.

New Business:

Approval of IRC Reports:

The Commission reviewed and discussed the IRC Reports for February and March 2010.

MOTION:

Mrs. Takacs made a motion to approve February and March 2010, IRC Reports. Mr. Biggers seconded the motion, which carried unanimously.

High School Education Requirements:

Mr. Dwight Hayes, Office of Licensure and Compliance reported that the current law states to be eligible for licensure, an applicant must have graduated from high school or hold a certificate of equivalency. Several candidates have applied for licensure that have not graduated from high school or hold a certificate of equivalency but they have a degree from Midlands Technical College. The candidates have assured him that Midlands Technical College offers certain program that does not require a high school diploma or certificate of equivalency.

Chairman Cox asked whether Midlands Technical College offer an Associate Degree in the whatever curriculum the student is studying.

Mr. Hayes stated yes, Midlands Technical College offers an Associate Degree in certain programs, which does not require a high school diploma, or GED.

Mrs. Takacs asked whether the document is specified as an Associate Degree or certificate for continuing education.

Mr. Spoon asked what information the applicant has to furnish to be enrolled at Midlands Technical College.

Mr. Hayes stated he was not sure.

MOTION:

Mrs. Brouters made a motion to table the High School Education Requirements until further information is received. Mr. Biggers seconded the motion, which carried unanimously.

Application Appearances:

Michael Connor

The Commission held an Application Hearing regarding Mr. Michael Connor.

MOTION:

Ms. Brouters made a motion to issue Mr. Connor a Cease and Desist to stop practicing Real Estate as a Real Estate Counsel, Advisor or Agent until a full Real Estate license is issued; and once he is issued a full Real Estate that his license be issued with a one-year probationary status. Ms. Takacs seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Edwards requested that §40-57-20 be placed in the newsletter.

Benjamin L. Johnston

The Commission held an Application Hearing regarding Mr. Benjamin L. Johnston.

MOTION:

Ms. Brouters made a motion to allow Mr. Johnston to sit for the Real Estate Examination. Mr. Harley seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Shawn A. Williams

The Commission held an Application Hearing regarding Mr. Shawn A. Williams.

MOTION:

Mr. Edwards made a motion to allow Mr. Williams to sit for the Real Estate Examination; prior to sitting for the examination Mr. Williams must provide the name and acknowledgment from the sponsoring broker that they are aware of Mr. Williams's felony convictions. Mrs. Tackacs seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Bobby E. Deans

The Commission held an Application Hearing regarding Mr. Bobby E. Deans.

MOTION:

Mr. Harley made a motion to allow Mr. Deans to sit for the Real Estate Examination. Mr. Edwards seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Draft Senate Amendment:

Mr. Pitts reported that he wanted to get the Commission's input and direction regarding the Draft Senate Amendment, which reads as following:

Amend the bill further, as and if amended by adding an appropriately numbered SECTION to read:

SECTION. _____ Section 27-50-10(2) is amended to read:

“(2) ‘Disclosure statement’ means a residential property condition disclosure statement written on a form as required by this article ~~and as promulgated by regulations of the commission.~~”

Amend the bill further, as and if amended by adding an appropriately numbered SECTION to read:

SECTION. _____Section 27-50-40(A) is amended to read:

“Section 27-50-40(A). The owner of the real property shall furnish to a purchaser a written disclosure statement. ~~The disclosure statement must contain the language and be in the form promulgated by the commission and the form may be delivered electronically through the Internet or other similar methods. The commission may charge a reasonable fee for the printed form but shall post the form for free downloading n its public website.~~The disclosure statement must include, but is not limited to, the following characteristics and conditions of the property:

- (1) the water supply and sanitary swage disposal system;
- (2) the roof, chimneys, floors, foundation, basement, and other structural components and modifications of these structural components;
- (3) the plumbing, electrical, heating, cooling, and other mechanical systems;
- (4) present infestation of wood-destroying insects or organisms or past infestation, the damage from which has not been repaired;
- (5) the zoning laws, restrictive covenants, building codes, and other land- use restrictions affecting the real property any encroachment of the real property from or to adjacent real property, and notice from a governmental agency affecting this real property;
- (6) presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material, buried or covered, and other environmental; contamination; ~~or~~
- (7) existence of a rental, rental management, vacation rental or other lease contact in place on the property at the time of closing and, if known, any

outstanding charges owed by the tenant for gas, electric, water, sewerage,
or garbage services provided to the property the tenant leases; or

- (8) existence of a meter conservation charge, as permitted by Section 58-37-50,
that applies to electricity or natural gas service to the property.”

Renumber sections to conform.

Amend title to conform.

Mrs. Brouters stated that this law passed in 1998 and the Commission’s Task Force tried to develop a simple Disclosure Form but made sure it protected the consumer purchasing the property. The Draft Senate Amendment would delete and standardize form and allow whomever to prepare their own form and the consumer could address all the issues in any informal document. Mrs. Brouters reported that she addressed this concern with Mr. Nick Kremydas and he stated that the Real Estate Commission could have a sample form available to consumers but companies or associations would have a different form. She stated that there is a definite need for standardization of disclosure.

Mr. Pitts reported that the Draft Senate Amendment amends a Bill that was already been proposed.

Mrs. Brouters stated that in order to protect the consumers there should be some baseline standardization and then the consumer could add additional proposals if applicable.

Mr. Spoon advised that §27-50-407(B) and (C) were deleted and section 8 added on the Draft Senate Amendment. He advised that the legislative format is to leave the section in place and strike through it. Sections (B) and (C) reads as following:

(B) The disclosure statement must give the owner the option to indicate that the owner has actual knowledge of the specified characteristics or conditions, or that the owner is making no representations as to any characteristic or condition.

(C) The rights of the parties to a real estate contract in connection with conditions of the property of which the owner has no actual or constructive knowledge are not affected by this article.

Mrs. Takacs stated as it reads in the Draft Senate Amendment states that the law has to be disclosed but does not give a formal manner for it to be done.

Mr. Biggers stated that it is the duty of the Commission to protect the public and that is the reason why the form was created. He suggested that the Commission update the form.

Chairman Cox reported that they have attempted to amend the form but was not successful because it was impossible to make everyone happy. He suggested keeping the form as it is and include an addendum.

Mr. Spoon advised that if this amendment passes the Commission would no longer have jurisdiction over the form.

Mrs. Tackacs suggested that the Commission update the current form and allow other disclosures pertinent to the areas.

Chairman Cox suggested informing Mr. Kremydas that is the consensus of the Commission that they do not change the form; and notifies all licensees that the form may addendums to make it more but not less than it is. The Commission not only feels responsibility to his membership but to the public and the licensees to keep a standardize form. The addendum may contain additional disclosure items.

Reactivation Application:

Mrs. Brouters reported that there is a problem with the Reactivation Application for inactive licensee. The application does not ask the licensee whether they had any criminal offenses.

MOTION:

Mrs. Brouters made a motion to add question on the Reactivation Application asking the licensee whether they have had any criminal offenses. Mr. Edwards seconded the motion, which carried unanimously.

Mr. Edwards asked how much money do the Real Estate Commission generates per month.

Mr. Pitts reported that he would present a report at the next meeting regarding revenue and expenses.

Dates of Next Meetings:

Mr. Pitts reported that meeting dates are April 21, 2010 Disciplinary Hearings and May 19, 2010, is regular Commission meeting with Application Hearings.

Adjournment:

Mrs. Takacs moved the meeting be adjourned. Mr. Brouters seconded the motion, which carried unanimously. The January 20 2010, meeting of the South Carolina Real Estate Commission was adjourned at 2:55 p.m.

Yours truly,

Jay Pitts
Administrator