

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

Wednesday, October 20, 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; Carl Edwards; Buccie Harley; Evelyn Young; 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; Jay Pitts, Administrator; Angela Scott, Administrative Assistant; Robert Selman; Legislative Liaison; Beau Tiller, Education; Lisa Hawsey, Administrative Assistant; Sharon Wolfe, Investigation; Bill Plunkett, Investigation; and Beth Cumalander.

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:

Scott Moseley and Sarah Tackas received excused absences.

Minutes – September 22, 2010

MOTION:

Mr. Edwards moved to accept the minutes of September 22, 2010 meeting with the following correction on Page 2. 7th paragraph delete Biggers add Biggers; add President Elect of ARELLO; 8th paragraph delete tweeter add Twitter; 10th paragraph delete Manger add Manager and add Time Share. Mrs. Young seconded the motion and it unanimously carried.

Approval of Agenda – October 20, 2010

MOTION:

Mr. Edwards moved to accept the October 20, 2010, Agenda as previously noted. Mr. Biggers seconded the motion and it unanimously carried.

Chairman's Remarks:

Tony Cox

Chairman Cox thanked everyone for attending the meeting.

Administrators Remarks:

Mr. Piitts presented the number of licensing as of today

5,007 - Broker	7,140 – Broker in Charge	1,325 – Inactive Broker
297 – Inactive Property Manager	4,384 – Inactive Salesman	10 – Inactive Time Share
901 – Property Manager in Charge	1,079 – Property Manager	17,968 –Salesman
958 – Salesman (Provisional)	44 – Vacation Time Share Registrant	
39,113 – Total Licensees		

Number of Investigations and Open Complaint Cases:

Mr. Pitts called on Mrs. Wolfe and she reported the number of investigations and open complaints cases as of today. See attached report.

2011 Proposed Meeting Dates:

Mr. Pitts proposed meeting the following for 2011.

January 19, 2011	February 16, 2011	March 16, 2011	April 20, 2011
May 11, 2011	June 22, 2011	August 24, 2011	September 21, 2011
October 19, 2011			

Mr. Pitts reported that there are Disciplinary Hearings scheduled for Tuesday, November 16, 2010, and there would be a legislative update presented by Mrs. Brouthers of the Legislative Task Force. In addition, the Commission decided to meet on Thursday, December 9, 2010.

South Carolina Department of Motor Vehicles:

Mr. Pitts presented to the Commission the South Carolina Department of Motor Vehicles 2011 License Plate Renewals and asked the Commission to complete the information and return by Tuesday, December 15, 2010.

Advisory Opinion on Apartment Community Incentives:

Mr. Pitts presented to the Commission a copy of the Advisory Opinion regarding Property Manager Apartment Community Incentives. A copy is attached for the record.

Chairman Cox called on Ms. Judy Bolin, Property Manager of Meridian at Lauren Ridge to present an overview regarding Property Manager Apartment Community Incentives.

Ms. Judy Bolin, Property Manager of Meridian at Lauren Ridge, stated that §40-57-145 forbids real estate brokers, salespersons and property managers to pay or offer to pay referral fees or finder fees to unlicensed individuals that are not a parties to the real estate transaction. She stated that referral fees and incentives have been common in the industry for many years. The general scenario is an existing resident of an apartment community is offered a rebate or incentive in exchange for referring someone as a new residence. The manager promotes the apartment community offer and administratively assures that the rebate or incentive is delivered. The owners of the apartment communities pay the referral fees or the incentives, not the property managers.

Ms. Yates, of the South Carolina Apartment Association stated that she concurred with Ms. Bolin and urged the Commission to do the same. The payment is merely from the owner of the apartment complex and the property manager is only sharing information with the residence onsite.

Mr. Spoon asked Ms. Bolin and Ms. Yates from their experience whether they had seen instances where the same tenant engaged in the practice repeatedly. In addition, he asked approximately how many referrals or incentives were paid annually.

Ms. Bolin answered that the majority of the tenants refer a friend or co-worker because of their experience with the communities. Ms. Bolin stated that she did not have the number of referrals or incentives actual paid but she could get the information and give a report later.

MOTION:

Mrs. Young made a motion to go into executive session for legal advice on a legal opinion. Mrs. Brouthers seconded the motion, which carried unanimously.

Mr. Edwards made a motion to come out of executive session. Mrs. Young seconded the motion, which carried unanimously.

Chairman Cox asked whether the Commission was voting on the amended draft of the Property Manager Apartment Community Incentives as presented and the elimination of paragraph F.

Mr. Spoon summarized the opinion in question and directed interested parties to the text of the opinion itself for further information.

- The prohibition in the current version of the Practice Act §40-57-145 (A) (11) is still in effect.
- The Commission would not find that ministerial participation by the property manager is in violation of §40-57-145 (A) (11) so long as the conditions outlined in the opinion are met. Those conditions include that the entity, not the property manager, must be in charge of exclusively directing the promotion. The property manager's involvement is nondiscretionary and administrative, not managerial. The thing of value (rebate, funds or rental credit) is paid from the funds or assets of the entity and not the property manager. However, the property manager is permitted to convey or deliver the rebate through the Administrative Act.

The payment to the unlicensed person must be for a performing activity that does not require a license.

MOTION:

Mrs. Brouthers made a motion to accept the amended opinion of the Office of General Counsel. Mrs. Young seconded the motion, which carried unanimously.

Unfinished Business:

Approval of IRC Reports:

Mr. Pitts stated at the last meeting the Commission discussed making changes to the IRC Report and staff has not had chance to implement those changes.

The Commission reviewed and discussed the IRC Reports for October 11, 2010.

MOTION:

Mrs. Young made a motion to approve the October 11, 2010, IRC Reports. Mr. Biggers seconded the motion, which carried unanimously.

New Business:

Real Estate Commission Legislative Committee Report – Dianna Brouthers:

Mrs. Brouthers reported that Task Force has completed their third meeting. There are nine people serving on the Legislative Task Force Committee, which are comprised of real estate practitioners, educators and Commission Staff. Prior to the first meeting the Task Force was assigned to accomplish a thorough review of the present Real Estate License Law and make notes of their recommended changes. In addition, they were asked to bring three wishes they would like to see implemented in the law. The focus of the initial meeting was to compile the wish list and discuss their rationale for their changes.

The second and third meetings of the Task Force focused on a line by line review and discussion of the present License Law and any needed revisions. One of the main concerns of the Committee was to increase the accountability of the broker in charge and property manager in charge. Mrs. Brouthers stated that this Committee is hoping to bring clarity to the License Law, which will assist licensee

behavior in situations they may encounter. Mrs. Brouthers stated that several more meetings may be needed before their task may be completed.

Chairman Cox thanked the Task Force for their assistance and work on the Legislation.

Application Appearances:

James P. Smalls, Jr.

The Commission held an Application Hearing regarding Mr. James P. Smalls, Jr. Mr. Smalls was not present. No action taken.

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

Louis Jeffery, Jr.

The Commission held an Application Hearing regarding Mr. Louis Jeffery, Jr. Mr. Jeffrey appeared before the Board and briefed the Commission regarding her criminal history report. In addition, Mr. Jeffrey waived his right to Counsel.

MOTION:

Mr. Edwards made a motion to allow Mr. Jeffery 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.)

Tammy L. Leavell

The Commission held an Application Hearing regarding Ms. Tammy L. Leavell. Ms. Leavell was not present. The Commission took no action.

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

Mr. Andrew N. Weddle

The Commission held an Application Hearing regarding Mr. Andrew N. Weddle. Mr. Weddle appeared before the Board and briefed the Commission regarding her criminal history report. In addition, Mr. Weddle waived his right to Counsel.

MOTION:

Mr. Edwards made a motion to allow Mr. Jeffery 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.)

Dates of Next Meetings:

Mr. Pitts reported that the next meeting dates are November 16, 2010 and December 9, 2010.

Adjournment:

Mrs. Brouthers moved the meeting be adjourned. Mrs. Young seconded the motion, which carried unanimously. The October 20, 2010, meeting of the South Carolina Real Estate Commission was adjourned at 12:52 p.m.

Yours truly,

Jay Pitts
Administrator