

**South Carolina Real Estate Commission
Meeting Minutes**

Thursday, January 19, 2023 at 10:00 am
110 Centerview Dr., Kingstree Building, Room 204
Columbia, South Carolina 29210

Public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingstree Building, Commission website, 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.

Commission Members Present:

William “Andy” Lee, Chair – 3rd Congressional District
John Rinehart, Vice-Chair – 5th Congressional District
Candace Pratt – 1st Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
W. Brown Bethune – 7th Congressional District
Gary A. Pickren, Esq. – At-Large Member
Jonathan Stackhouse – Public Member

SCLLR STAFF PRESENT:

Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Administrator
Joi Middleton, Education Manager
Ashlynn Kirk, Administrative Coordinator
Katie Phillips, Government Affairs Director
Molly Price, Office of Resiliency Liaison
Chuck Waters, Office of Investigations and Enforcement
James Kemfort, Office of Investigations and Enforcement
Michael “Doc” Smith, Office of Investigations and Enforcement
Rosa McCoy, Office of Investigations and Enforcement
Wattie Wharton, Office of Investigations and Enforcement

PRESENT:

Katherine Boone, Court Reporter
Austin Smallwood, SCR
David Lockwood III
Allen Wilkerson
Jenny Brennan, SELC
Emily Cedzo, CCL
Merrill McGregor
Chris DeScherer, SELC
Hope Warren, SCOR

CALLED TO ORDER: Mr. Lee, Chair, called the meeting to order at 10:02 am.

INVOCATION

Ms. Mitchell gave the invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all present.

INTRODUCTION OF COMMISSION MEMBERS AND STAFF

Commission members and staff introduced themselves.

APPROVAL OF EXCUSED ABSENCES

None

APPROVAL OF AGENDA

Motion: To approve the agenda with the amendment to move Public Comments from topic number 14 to topic number 6.

Moved by Mr. Bethune and seconded by Ms. Pratt, the motion carried by unanimous vote.

PUBLIC COMMENTS

Jenny Brennan with the Southern Environmental Law Center provided background regarding the property disclosure form and the requested expansion for flooding disclosure and coastal hazards disclosures. Emily Cedzo with the Coastal Conservation League provided information regarding coastal hazards (weather, erosion, etc.) in South Carolina. Ms. Cedzo also provided examples of flooding disclosures that were added successfully to the property disclosure forms of states such as Louisiana and Texas. DHEC and the SC Office of Resiliency have compiled data that provides detailed insight for the need of the recommended property disclosure updates. They will also be pursuing funding at the State House for the creation of a database that will have all this information included. Ms. Cedzo suggested that this link could also be on the disclosure form in the future so that the public has easy and accessible information as well.

Mr. Pickren pointed out that there are certain resources needed prior to making sellers responsible for providing additional property disclosure information.

Hope Warren with the South Carolina Office of Resilience (“SCOR”) (previously known as the Disaster Recovery Division) stated that SCOR will be revealing the first version of their resilience and risk reduction plan due July 1, 2023, which will include information on flooding, and that flood vulnerability assessment is currently available. Molly Price, LLR, stated she is happy to work with Mrs. Buttler and provide committee reports and updates from the SCOR as she is LLR’s Office of Resiliency Liaison.

Austin Smallwood suggested that for the property disclosure flooding verbiage, to add information on private vs. federal claims, SCR has worked collaboratively with the previously mentioned organizations to obtain data and information for flood disclosure.

Chairman Lee stated that Mr. Tennis will get in touch with attendees to develop a meeting at which the proposed flood language for the Residential Property Condition Disclosure Statement can be looked at in more depth.

APPROVAL OF MEETING MINUTES

Motion: To approve the December 14, 2022 Commission meeting minutes.
Moved by Mr. Bethune and seconded by Mr. Stackhouse, the motion carried by unanimous vote.

Motion: To approve the December 6, 2022 Education Taskforce meeting minutes.
Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Motion: To approve the January 5, 2023 Education Taskforce meeting minutes.
Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Motion: To approve the December 6, 2022 Finance Taskforce meeting minutes.
Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Motion: To approve the January 5, 2023 Finance Taskforce meeting minutes.
Moved by Mr. Bethune and seconded by Mr. Rinehart, the motion carried by unanimous vote.

CHAIRMAN'S REMARKS

None

PRESENTATION OF SERVICE PLAQUE TO DAVID LOCKWOOD

Chairman Lee presented former Vice Chairman of the Commission, David Lockwood III, with an appreciation of service plaque.

STAFF REPORTS

a. Office of Investigations and Enforcement (OIE) Report

Mr. Kemfort provided the end of year OIE report, as of January 31, 2022, from January 1, 2022 to December 12, 2022, 901 complaints have been filed. OIE currently has 60 active cases and 197 cases have been closed during the year.

Mr. Bethune stated that he wants to see the data of the previous 3 years' OIE reports, Mr. Kemfort stated he will have this data for the next commission meeting.

b. Investigative Review Committee (IRC) Report

Mr. Kemfort reported the IRC met on January 10, 2023, via teleconference. The IRC recommends the following: 12 cases for dismissals, 5 cases for Letters of Caution, 3 cases for dismissal with a cease and desist, and 6 formal complaints.

Mr. Burnett questioned the IRC logic behind Case 2022-659. Mr. Tennis advised that Cease and Desist Orders may be issued against unlicensed individuals for unlicensed practice, and if the

individual becomes licensed prior to its issuance, there is no longer a need to send the cease and desist order for the unlicensed practice because, following becoming licensed, the issue is moot.

Motion: To enter into Executive session for legal advice.

Moved by Mr. Rinehart and seconded by Ms. Mitchell, the motion carried by unanimous vote.

Motion: To return to public session and for the minutes to reflect no votes were taken during executive session.

Moved by Mr. Stackhouse and seconded by Mr. Pickren, the motion carried by unanimous vote

Motion: To accept IRC recommendations as presented.

Moved by Mr. Pickren and seconded by Mr. Stackhouse, the motion carried by unanimous vote.

c. Office of Disciplinary Counsel (ODC) Report

On behalf of Mr. Alston, Mrs. Buttler reported as of January 4, 2023, there are 61 open cases of which 30 are pending hearings and agreements, 0 pending closure, and 44 have been closed January 1, 2022 through December 31, 2022.

d. Administrator Report

Mrs. Buttler reported there are currently 7,337 active Broker-in-Charge licensees with 5 in active-in-renewal status; 4,856 active Broker licensees with 2 in active-in-renewal status; 32,735 active Salesperson licensees with 7 in active-in-renewal status; 1,383 active Property Manager-in-Charge licensees with 0 in active-in-renewal status; 1,719 Property Manager licensees with 1 in active-in-renewal status. The Commission was also presented the totals for initial applicant volume, timeshare salesperson registrants, Real Estate or Property Manager Office registrations, and registration numbers for Real Estate Schools and Instructors.

The Commission's current account balance as of November 30, 2022, is \$7,698,871.62. Also included in the meeting materials is the cash balance report for the Education and Research fund as well as the Timeshare fund.

Mrs. Buttler reported that travel has been approved for the Mid-Year ARELLO Conference on April 25-29, 2023. The Agency has approved for four members to attend. At this time Mr. Rinehart, Ms. Pratt, Mr. Stackhouse, and Mr. Pickren indicated they would like to attend. Commissioners listed will need to notify Mrs. Buttler as soon as possible if there are any changes as she will be submitting conference registration following this meeting and sending out additional travel information.

Mrs. Buttler reported that Commission staff has been able to pull and review the examination data for 2022, correcting the schools the applicants attended. This data has been submitted to PSI with a request it be corrected in their system so that we will be able to pull accurate score reports.

Joi Middleton, Education Manager, provided the education report. Ms. Middleton stated that she has also pulled data, including the numbers of test takers, of 2017 through 2020, salesman, broker, and property manager, shows a high increase. Staff should be obtaining test results for 2021 and 2022 within the next few months. Mr. Rinehart stated he would like to see the breakdown of test takers in-state vs. out-of-state. Mrs. Buttler stated that data will be provided at the next Administrative day meeting. Ms. Middleton also provided an overview of the provider and instructor application processes.

Motion: To amend the Agenda to move Legislative Update from topic number 11 to topic number 10.

Moved by Mr. Burnett and seconded by Mr. Pickren, the motion carried by unanimous vote.

LEGISLATIVE UPDATE

Katie Phillips provided the legislative update and brought three bills to the attention of the Commission. First is an amendment to the Real Estate Appraisers Practice Act- H.3278, this bill passed the House last year and relates to value and price opinion.

Ms. Phillips also brought to the attention of the Commission that there is a lot of workforce discussion at the State House, primarily related to criminal history and convictions, and getting more people into the workforce. Bills brought to the attention of the Commission related to the workforce discussion were Senate bill S.165 which was refiled and House bill H.3605 would impact licensure and LLR processes. House bill H.3605 is a newer bill and is referred to as an LLR Reform bill, and would require the complaint to be released to the respondent within a specific amount of time and would create an informal conference between IRC and a respondent. A respondent could also petition the Agency director for procedural review.

The second part of House bill H.3605 is the criminal conviction component, it is broader than what has been in the Senate bills before and still includes prohibitions regarding terms like “moral turpitude” and “good character,” it does not have the time periods that the Senate bill has had in the past. It is anticipated that both bills will go to subcommittee as early as next week. Ms. Phillips will provide the Commission with the information on when the subcommittees will meet.

TASKFORCE REPORTS

a. Finance Taskforce

Mr. Pickren reported that the Financial Taskforce met on December 6, 2022 and January 5, 2023 via in person and WebEx. The Taskforce has focused efforts into five categories: education, IT, communication, research, and an endowed chair. At the first meeting in December the Taskforce discussed funding of education opportunities. The Taskforce agreed to fund the creation of core classes: one for residential and one for commercial, and to create a bank of classes for remediation/disciplinary.

At the second meeting research funds and endowed chair were discussed. Funding for an endowed chair was not approved at this time due to the amount of funds it would require. The taskforce agreed to funding research for wholesaling, broker-in-charge supervision, and the examinations. The taskforce is not recommending research on short term rentals

due to the Commission not having jurisdiction in the matter. The next meeting in February will discuss IT and communication.

Mr. Pickren proposed to the Commission the reinstatement of the allocation of \$10.00 from the annual license renewal fee from future renewals and having this apply retroactively to the past 5 years, to the Education and Research fund for future endeavors.

Motion: To enter into Executive session for legal advice.

Moved by Mr. Burnett and seconded by Ms. Mitchell, the motion carried by unanimous vote.

Motion: To return to public session and for the minutes to reflect no votes were taken during executive session.

Moved by Ms. Pratt and seconded by Ms. Mitchell, the motion carried by unanimous vote

Motion: To allocate \$10.00 of each annual renewal fee to the education and research fund, pursuant to statutory authority, beginning 2023 and for future annual fees.

Moved by Mr. Pickren and seconded by Mr. Burnett, the motion carried by unanimous vote

b. Education Taskforce

Mr. Burnett reported that the Education Taskforce met on December 6, 2022, and January 5, 2023, via in person and WebEx. After both meetings the Taskforce came up with a proposal that has a few topics that need the Commission's input going forward.

Mr. Burnett presented the Commission with the request for the Taskforce to begin development of revisions to Pre-Licensing Course Syllabus. The current syllabus that instructors use are not as detailed as other states and the Taskforce felt the need for the addition of clarifications.

Motion: To revise the Pre-Licensing Course Syllabus.

Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Mr. Burnett stated that the Taskforce has discussed and would like to create two core classes, one for commercial and one for residential, and identified the need to amend regulation to appropriately accommodate the changes.

Motion: To create two core courses and move forward with a notice of drafting.

Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote

Mr. Burnett also brought up the pass/fail rates for exams and the Taskforce being of the opinion that the requirements for becoming a pre-licensing course instructor may not be

rigorous enough. There is also a subcommittee looking into the instructor development workshop. The Taskforce is requesting permission from the Commission to review and suggest amendments to the pre-licensing instructor course requirements.

Motion: To review and amend the pre-licensing course instructor requirements and file the necessary notice of drafting.

Moved by Mr. Pickren and seconded by Mr. Bethune, the motion carried by unanimous vote.

Mr. Burnett reviewed the Taskforce's recommendation to develop a bank of remediation courses that can be used for disciplinary purposes. There have been issues with licensees obtaining the needed courses for disciplinary sanctions as many courses are not being offered. Mrs. Buttler mentioned that other boards utilize remediation courses which are separate from general CE courses. Creation of a bank of courses would be beneficial and the bank would also contain courses more specific than the courses the Commission currently requires for disciplinary actions. Mrs. Buttler explained that the classes could be online and require stricter proctoring and checkpoints throughout the class. Mr. Burnett is asking permission from the Commission for the Taskforce develop a remediation course bank.

Motion: To develop a course bank for remediation and educational purposes.

Moved by Mr. Pickren and seconded by Mr. Bethune, the motion carried by unanimous vote.

Regarding classes, Mr. Burnett explained to the Commission that there are three different types of classes being provided, in-person, synchronous (online, live, and proctored), and asynchronous (online, completed on your own time, and does not need scheduling). If this type of course is allowed, asynchronous could put local providers and schools at a disadvantage. Pre-licensing classes require a bank of questions that needs to be supplied to ARELLO. Per ARELLO requirements, 80% of the questions need to be changed every time the student fails the course. Local providers do not have the time and/or staff to create required question bank for each asynchronous classes. Mr. Burnett is asking Commission to think about what classes they wish to offer and which they do not want to offer as asynchronous. For example, North Carolina will not allow core classes to be taken asynchronous. Mr. Burnett will ask for further guidance at a later date following the next Taskforce meeting.

Mr. Burnett informed the Commission that the Taskforce also considered setting disciplinary action for schools, based upon low pass rates. Mr. Pickren also pointed out that time frames for completing class to taking the exam is a year, this time frame should be shortened. Having students take the exam closer to when they finish the class would help increase pass rates. Chairman Lee advised the taskforce to continue the discussion.

c. Wholesaling Taskforce

Mr. Rinehart provided an update regarding the Wholesaling Taskforce. Mr. Rinehart advised that there is so much misinformation on the internet regarding wholesaling. This is leading to the public being taken advantage of. Another aspect, definition of 'net

listing' is a practice that is not legal in South Carolina nor most other states. Mr. Rinehart provided SC Code of Laws 40-1-30 regarding unlicensed practice, 40-1-100(A) regarding violations and cease and desists, 40-1-130 regarding the ability to deny authorization to practice, and 40-1-200 regarding those licensed to practice in violation of submitting false information. The position statement is currently being worked on by advice counsel. He believes, with these statutes in mind, there is no reason the Commission is unable or prohibited to protect the public from the scheme of wholesaling. The next Taskforce is tentatively scheduled for February 16, 2023.

NEW BUSINESS

a. Discussion on Property Disclosure Statement- Andy Lee

Chairman Lee stated the comments from the public earlier in the meeting have merit and that adding flood language to the property disclosure statement would be beneficial to the public. Mr. Smallwood also asked for the revision of roofing language be added to the Property Disclosure Statement as well. Chairman Lee will work with advice counsel, SCR, the stakeholders from public comments, and bring back the proposed flood language and roofing language to the next meeting.

b. Licensee Data Sync with MLS Reporting System- Austin Smallwood, Esq., SCR

Mr. Smallwood asked the Commission if they would allow for LLR licensee data to sync with the SCR MLS reporting system to allow accurate, daily updates, for compliance. The information provided would only be information that is already on the LLR website and would not be used for commercial solicitation. Mrs. Buttler stated that LLR has done something similar with other boards.

Motion: To approve the Administrator and IT to develop daily MLS reporting system to sync with SCR.

Moved by Mr. Pickren and seconded by Ms. Pratt, the motion carried by unanimous vote.

c. Regulatory Review- Kyle Tennis, Esq.

Mr. Tennis advised the Commission that it is time for regulatory review, every five years state agencies are required to review their existing regulations to determine if any parts need to remain as is, need to be repealed, or need amendments. Mr. Tennis provided a list of the current regulations and suggestions of which regulations may need amendments based on prior discussions with the Commission and the various Taskforces: 105-06, 105-08, 105-10, 105-11, and 105-13. No current regulations were identified as needing to be repealed, Regulations not listed could remain as is.

After reviewing Mr. Tennis's recommendations, the Commission agreed with the recommendations for the regulatory review.

d. Notice of Drafting- Kyle Tennis, Esq.

Mr. Tennis will create Notice of Drafting to include the following issues: re-examination procedures, instructor qualifications, renewals for instructors, addition of commercial core course, and brokerage supervision. Mr. Pickren recommended the addition of a definition section.

The Commission agreed to the recommended notice of drafting. Mr. Tennis advised the notice of drafting could always be updated at a later date.

e. Renewal Applications and Procedures- Meredith Buttler

Mrs. Buttler explained the proposed changes to the renewal application and procedures in order to make the process and procedures more efficient and in accordance with the statutes. Mrs. Buttler stated that in addition to the proposed changes, she recommends the inclusion of online document submission, this document submission has worked well for other large boards with LLR. In accordance with SC Code of Law 40-57-110(D) and (E), licenses not renewed by the expiration date are to be lapsed, followed by a six month reinstatement period. The new system will allow licenses to renew online until midnight on June 30th. Then between July 1st and December 31st, licensees will need to log into the licensee portal and submit a reinstatement application, payment, and proof of CE. After midnight on December 31st, licensees who did not reinstate will be cancelled and need to reapply. The most significant change will be licenses that have not completed renewals by midnight June 30th will be changed to lapsed status as of July 1st. Mrs. Buttler will work with SCR to provide notices to licensees regarding proposed renewal procedures and cancellation of licenses.

Motion: To approve the proposed renewal application and procedure changes as presented by Mrs. Buttler.

Moved by Mr. Rinehart and seconded by Ms. Mitchell, the motion carried by unanimous vote.

f. Initial Applications- Meredith Buttler

Mrs. Buttler explained proposed revisions to initial applications, the proposed revisions include: separate applications for salesman, broker, and property manager. Each application would include an overview page containing licensure requirements and an application process overview.

In addition, the website will also include a section on the applications page with clarification on criminal convictions and a scope of practice visual chart showing what each license type is capable of doing. Mrs. Buttler explained that the proposed revisions are in an effort to ensure all information is clear, consistent, and enhances processing efficiency.

Chairman Lee and the Commission agreed that there was overall approval for the proposed changes, no motion needed. Mrs. Buttler will update the Commission during this process.

g. Travel Approval- 2023 ARELLO Annual Conference, September 18-22, 2023 in Montreal, QC, Canada

Mrs. Buttler requested travel reimbursement approval for herself, 6 LLR staff members, and all Commissioners to attend ARELLO.

Motion: To approve the coverage of travel expenses needed for seven (7) staff members and all Commission members to attend the ARELLO Annual Conference for

continuity of knowledge retention.

Moved by Mr. Stackhouse and seconded by Mr. Bethune, the motion carried by unanimous vote.

- h. Travel Approval- 2023 ARELLO Regulatory Investigations Seminar, October 10-12, 2023 in Omaha, Nebraska

Mrs. Buttler requested travel reimbursement approval for herself, all Real Estate Commission Inspectors, and all Investigations to attend ARELLO.

Motion: To approve the coverage of travel expenses needed for Mrs. Buttler and all Real Estate Commission Inspectors and Investigations teams.

Moved by Mr. Pickren and seconded by Ms. Mitchell, the motion carried by unanimous vote.

EXECUTIVE SESSION

Motion: To enter into Executive session for legal advice.

Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Motion: To return to public session and for the minutes to reflect no votes were taken during executive session.

Moved by Mr. Rinehart and seconded by Mr. Bethune, the motion carried by unanimous vote

ADDITIONAL PUBLIC COMMENTS

Mr. Smallwood notified the Commission of vacant land scams. Mrs. Buttler advised that there is currently an alert on the Commission website regarding the scam and an e-blast was sent out as well. Mr. Smallwood also brought the subject of multi-year listing/marketing agreements, Chairman Lee stated this subject will be put on next agenda.

ADJOURNMENT

Motion: To adjourn.

Moved by Mr. Bethune and seconded by Ms. Mitchell, the motion carried by unanimous vote.

The meeting adjourned at 2:53 pm.