



TREC Advisor

The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

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TREC Completes Move to Capitol Complex



The Texas Real Estate Commission and Texas Appraisers Licensing and Certification Board have relocated the agency and its staff to offices on the newly renovated fourth floor of the Stephen F. Austin State Office Building located at 1700 North Congress Avenue.

The entire agency and its 99 staff completed the move with little disruption to the 150,000 license holders it serves. While online services were shut down over the weekend and the entire agency was closed for one business day, Friday July 15, the agency was up and running at full communications capacity as planned on Monday, July 18. All online services, including "My Online Services", are fully restored. An updated list of important agency

contact numbers and directions to the agency's offices can be found on the TREC and TALCB websites.

Administrator Douglas Oldmixon gave accolades to the well-prepared staff, "I am so proud of the comprehensive way the team approached and followed through on this complex undertaking. New location; new office configurations; new phone numbers, new email addresses and updated website domain – all fully coordinated. This move was planned with more attention to detail than some military campaigns I have seen in my career. Full credit goes to every team member who got their tasks fully accomplished on time. One prime motive of the team was to minimize any adverse impact on the license holders, and in that goal I believe we have succeeded."

TREC Chair Avis Wukasch communicated appreciation for all the work that led to this success, "I know how hard the agency staff has worked on this and the Commissioners thank you sincerely for that dedication. You ladies and gentlemen deserve the very best and your beautiful new office space is among the best I have seen. You have earned it."

TALCB Chair Luis De la Garza thanked the staff and expressed his belief in the positive direction the move represents for the agency, "On behalf of the Board, we are truly grateful for the enormous effort staff exerted to ensure this project went smoothly. We anticipate major benefits for both staff and our license holders from this timely move."

The new location is a key step in reinvigorating the agency, which endured its prior location in northeast Austin for over 30 years. With expert space planning and architectural services provided by the Texas Facilities Commission, the new offices offer the agency more efficient use of space and reduced utility costs, are designed to encourage more effective teamwork and provide a safer work environment for the staff. The Capitol complex location provides enhanced technology infrastructure capabilities and ensures that agency leaders will have better access to other major state agencies that it works with on a regular basis.

From the Administrator...

This is my first column from our new home on the fourth floor of the Stephen F. Austin State Office Building, just two blocks north of the Texas State Capitol building. Looking out the window and seeing the pink granite dome reminds me daily of how blessed we are to live in this great state. And even more so, how fortunate this agency is to have the strong support of our license holders and their professional associations as we make the transition to a modern infrastructure, streamlined rules, and strengthened professions.

Despite multiple weeks and days of triple digit temperatures, the agency team made our recent move look easy. It was not a simple task, but their exceptional planning, execution and attitude made the transfer of people, equipment, furnishings and supplies happen with far fewer challenges than we anticipated. Read more about it and leadership reactions in the recent press release copied in this issue. Staff efforts prior to the planned one-day closure ensured there was no downtime in serving you, our license holders. Internet service, phone service and walk-in assistance were all up and running on Monday morning. Thanks to all whose extraordinary contributions made this possible.



Douglas E. Oldmixon

The Commission will next meet on August 1st at 10 AM in the Commission room on the first floor of our new building, with a new Chair and two new members. Because of the number of legislative developments that were successfully passed this session, a robust set of rules will be updated to implement the many positive changes. Future meetings are tentatively planned for October 10th and December 5th to ensure we get it all done. Please follow our progress closely as we work to guarantee a full and fair hearing on all of the rule changes made necessary by the new laws. There are two major transition deadlines, with some changes arriving January 1, 2012 and others not taking effect until September 1, 2012. See the meeting agenda included in this newsletter for additional details.

The agency will become self-directed and semi-independent as of September 1st. The wisdom of this path was brought home to me last week as I heard the news of the many state agencies that are laying off additional staff to meet the leaner 2012 budgets provided by the legislature. This agency will not have to lay off any more staff and should fare better in the long run because of the support of our license holders for this unique status. The short term will see modest fee increases to meet our required annual contribution to the general revenue, but the agency should be able to absorb all other planned expenses. There is a more complete explanation of the impact in a separate article in the newsletter.

Thanks for your continued support and for staying informed on the issues affecting our license holders and our agency. As always, we welcome your ideas and your feedback on all we do. Stop by and see our new home. We really like our new neighborhood and we welcome your visit.

Important Dates to Remember

August 1—TREC Commission Meeting (in new offices)

August 10—Education Working Group Meeting

ARELLO Highlights TREC SDSI Status

In a recent article published in the July issue of the ARELLO newsletter, The Association of Real Estate License Law Officials highlighted the new Self Directed Semi Independent status of both the Real Estate Commission and the Appraiser Board. Read the interesting article in its entirety below.



Current economic conditions and the resulting strain on government budgets have prompted legislatures and executive-level officials in many jurisdictions to employ "belt-tightening" measures. In some cases, those initiatives have included the consolidation of targeted agencies under the organizational "umbrella" of larger agencies in order to centralize common functions and reduce overall costs. Consolidation initiatives are not uncommon, especially in times of economic stress, and are not limited to U.S. jurisdictions. [See, "Western Australia Eliminates the Real Estate and Business Agents Supervisory Board" in this issue of *Boundaries*.] In Texas, however, concerns about the diversion of real estate licensing fees to unrelated governmental purposes have led to the passage of a law that will establish the Texas Real Estate Commission as a "self-directed and semi-independent agency".

In 2001 and 2003, the Texas legislature implemented the "Self-Directed, Semi-Independent (SDSI) Agencies Pilot Project", which directed three occupational licensing agencies to undertake a program of budgetary self-sufficiency. This initiative removed the architect, engineer and accountant licensing agencies from the legislative appropriations process and required them to cover all of their operational costs and reimburse the state for all personnel related expenses. In 2007, four closely related financial institution regulatory agencies also acquired SDSI status, bringing the total to seven. Signed on June 17th, Texas SB 1000 establishes the Texas Real Estate Commission (TREC) and Texas Appraiser Licensing and Certification Board (TALCB) as the state's newest SDSI agency.

Under SB 1000, TALCB will remain as an independent subdivision of TREC. Their respective enabling acts are not affected, except to effectuate SDSI status, and both will still be subject to the state's open meetings, public information, administrative procedure and other applicable laws. The governor of Texas will continue to appoint Commission and Board members. However, each will adopt an annual budget, set salaries and expenditures and control the amounts of the fees that they are required or permitted to collect. In short, they will be responsible for all of the direct and indirect costs of their existence and will be prohibited from incurring any costs to be borne by the Texas General Revenue Fund. SB 1000 also requires the agencies to keep specific statistical and financial records and submit periodic reports to the state legislature and governor disclosing their financial condition, revenue and expense budgets, salaries, regulatory jurisdiction, rules and other information.

According to legislative records, proponents of the bill argued that SDSI status would allow TREC and TALCB to provide better industry regulation and public protection. Proponents asserted that recent state budget cuts have hampered the ability of TREC and TALCB to carry out their respective missions, even though their licensing and other revenues have remained largely consistent. Currently, most of the licensing and registration fees that are raised by the agencies are deposited into the Texas General Revenue Fund, but only a percentage of those moneys are appropriated back to TREC. This situation makes revenue raising and spending less transparent to those who pay the fees charged by the agencies. Proponents also pointed out that, like the other regulatory agencies with SDSI status, TREC's functions are directly related to the number of persons it licenses, not to other economic factors that affect the overall state budget. Proponents said that SDSI status would allow the agencies to operate like a business, promote accountability to stakeholders and reduce the total size of state government.

Opponents of the legislation argued that SDSI status eliminates a significant level of legislative oversight that is afforded by the biennial appropriations process. They also argued that the fact that some licensing

ARELLO SDSI Article Continued

and regulatory agencies bring more into the state's coffers than they are appropriated to spend properly allows more general revenue to be made available for other state priorities.

Some of the other operative features of SB 1000 include:

- Continued representation by the Texas Attorney General and payment of an annual minimum \$75,000 retainer, plus additional incurred attorney fees;
- Payment of an annual minimum \$75,000 retainer to the State Office of Administrative Hearings plus additional incurred hearing fees;
- Continued audits by the Texas State Auditor and an annual minimum \$10,000 payment for that purpose;
- Authority to, among other things, enter into contracts; acquire, use and dispose of or sell real and personal property; use and operate facilities; borrow money; and
- The state benefits and retirement system status of agency employees will be unaffected.

In addition to the minimum retainers and audit payments, TREC will be required to deposit \$750,000 annually to the Texas General Revenue Fund. To facilitate the transition to SDSI status, TREC will receive appropriations for fiscal years 2012 and 2013 amounting to 50% of its 2011 appropriation. TREC must, however, repay those amounts. TREC is also required to relocate to state-owned offices, a process that it has already begun, and pay aggregate rents of not less than \$550,000 in fiscal year 2012 and 2013 and \$425,000 in fiscal years 2014-2016. The first two years are higher to fulfill state cost recovery requirements for new modular furnishings at the newly redesigned office space. The fiscal note attached to SB 1000 indicates that the net revenue impact to the state's general fund will be a gain of approximately \$1.3 million in fiscal years 2012 and 2013, respectively, and \$1.17 million in each subsequent year through 2016.

TALCB licenses, certifies and regulates Texas real estate appraisers and, beginning in March 2012, appraisal management companies. Currently about 6,000 appraisers are licensed or certified in Texas. TREC is the state's regulatory agency for real estate brokers and salespersons, real estate inspectors, education providers for real estate and inspection courses, residential service companies, timeshare developers and easement or right-of-way (ERW) agents. Currently, Texas has licensed or registered about 43,400 brokers, 98,200 sales agents, 3,100 inspectors, and 2,000 ERW agents. In addition, about 200 real estate related schools and 4,800 instructors are approved by the agency.



The full text of Senate Bill 1000 and all other TREC Related Legislation can be found on the Texas Legislature Online website www.capitol.state.tx.us.



AGENDA FOR TEXAS REAL ESTATE COMMISSION (TREC) MEETING

Conference Room 170

Stephen F. Austin Bldg., 1700 N. Congress Avenue

Austin, Texas 78701

August 1, 2011 at 10:00 a.m.

CALL TO ORDER

1. Call to order and pledges of allegiance
2. Discussion and possible action to excuse Commissioner absence(s), if any
3. Election of vice-chair

MINUTES

4. Approval of minutes of May 2, 2011 Commission meeting

STAFF AND COMMITTEE REPORTS

5. Reports by administrator, general counsel, and division directors of monthly activities and statistical data for communications, licensing, education, enforcement, information technology, staff services, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by commissioners to division directors regarding issues raised by the monthly activities reports; discussion of current topics raised by monthly reports; requests by commissioners for additional information or reports from staff; and introduction of new employees
6. Report by Texas Real Estate Inspector Committee

PUBLIC COMMENTS

7. General comments from visitors on non-agenda items

RULES FOR POSSIBLE ADOPTION

8. Discussion and possible action to adopt amendments to 22 TAC, Subchapter Q §535.191 regarding Schedule of Administrative Penalties
9. Discussion and possible action to adopt amendments to 22 TAC, Subchapter R, §535.219 regarding Schedule of Administrative Penalties
10. Discussion and possible action to adopt amendments to 22 TAC Chapter 537 as follows:
 - a. §537.20 concerning Standard Contract Form TREC No. 9-9

- b. §537.28 concerning Standard Contract Form TREC No. 20-10
- c. §537.30 concerning Standard Contract Form TREC No. 23-11
- d. §537.31 concerning Standard Contract Form TREC No. 24-11
- e. §537.32 concerning Standard Contract Form TREC No. 25-8
- f. §537.37 concerning Standard Contract Form TREC No. 30-9

EMERGENCY RULES FOR POSSIBLE ADOPTION

- 11. Discussion and possible action to take emergency action to adopt amendments to 22 TAC Chapter 535 as follows:
 - a. Subchapter B, §535.17 concerning Appraisals
 - b. Subchapter C, §535.31 concerning Attorneys at Law
 - c. Subchapter E, Requirements for Licensure as follows:
 - i. §535.50 concerning Definitions
 - ii. §535.51 concerning General Requirements
 - iii. §535.53 concerning Corporations and Limited Liability Companies
 - d. Subchapter I, §535.93 concerning Late Renewals
 - e. Subchapter J, §535.101 concerning Fees
 - f. Subchapter M, §535.132 concerning Eligibility for Licensure
 - g. Subchapter N, §535.141 concerning Initiation of Investigation

RULES FOR POSSIBLE PROPOSAL

- 12. Discussion and possible action to propose amendments to 22 TAC Chapter 535 as follows:
 - a. Subchapter B §535.17 concerning Appraisals
 - b. Subchapter C, §535.31 concerning Attorneys at Law
 - c. Subchapter E, Requirements for Licensure as follows:
 - i. §535.50 concerning Definitions
 - ii. §535.51 concerning General Requirements
 - iii. §535.53 concerning Corporations and Limited Liability Companies
 - iv. §535.55 concerning Education Requirements for a Salesperson License
 - v. §535.56 concerning Education and Experience Requirements for a Broker License
 - d. Subchapter F, §535.63 concerning Accreditation of Core Education Schools
 - e. Subchapter G, Mandatory Continuing Education as follows:
 - i. §535.71 concerning Approval of Providers, Courses and Instructors
 - ii. §535.72 concerning Presentation of Courses, Advertising and Records
 - f. Subchapter I, Licenses as follows:

- i. §535.91 concerning Renewal Notices
- ii. §535.93 concerning Late Renewal Applications
- iii. §535.96 concerning Mailing Address and Other Contact Information
- g. Subchapter J, §535.101 concerning Fees
- h. Subchapter L, Termination of Salesperson's Association with Sponsoring Broker as follows:
 - i. §535.121 concerning Inactive License
 - ii. §535.122 concerning Reactivation of License
- i. Subchapter M, §535.132 concerning Eligibility for Licensure
- j. Subchapter N, §535.141 concerning Initiation of Investigation
- k. Subchapter R, §535.210 concerning Inspector Fees

PENDING BUSINESS

- 13. Discussion regarding legislative housekeeping measures and other legislative items
- 14. Discussion and possible action to adopt a code of conduct for members of advisory committees and working groups

NEW BUSINESS

- 15. Discussion and possible action to approve changes to TREC application forms to incorporate amendments to Texas Occupations Code Chapter 1101 under Senate Bill 747, 82nd Texas Legislature, Regular Session (2011)
- 16. Discussion and possible action on Broker Responsibility working group recommendations on experience requirements for a broker license
- 17. Discussion and possible action to approve amendments to the Seller's Disclosure of Property Condition Form, TREC No. OP-H
- 18. Discussion and possible action to appoint two members to the Broker Lawyer Committee
- 19. Discussion and possible action to approve annual internal audit report
- 20. Executive session to discuss personnel matters regarding the TREC administrator position under Texas Government Code, §551.074
- 21. Discussion and possible action on items considered in executive session
- 22. Discussion and possible action to establish policies related to self-directed semi-independent status, including:
 - a. Operating reserves
 - b. Technology replacement reserves
 - c. A target reserve balance in excess of which the agency may reduce fees
- 23. Discussion and possible action to adopt a budget

CONTESTED CASES

24. Consideration and possible action regarding Proposal for Decision from State Office of Administrative Hearings in the matter of SOAH Docket No. 329-10-3045.REC

RECOVERY FUND

25. Recovery fund matters

- a. Executive session to discuss pending litigation pursuant to Texas Government Code §551.071
- b. Discussion and possible action to authorize settlement of recovery fund claims

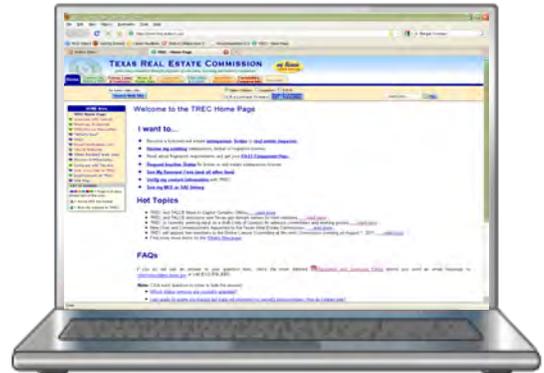
FUTURE MEETINGS

26. Discussion and possible action to schedule future meetings

27. Adjourn

The Texas Real Estate Commission may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code, §551.071.

For all the Commission Meeting Materials and more about the Texas Real Estate Commission go to www.trec.texas.gov



Update your contact list, TREC has a new address!

Main Line: 512-936-3000

Main Fax: 512-936-3283

Physical Address:

1700 N. Congress Ave.

Suite 400

Austin, TX 78701

*Please note, the mailing address has stayed the same. All fax numbers and directions to the new offices can be found on the TREC Website www.trec.texas.gov on the "Contact Us" page.

TREC Disciplinary Actions

Taylor, Sherri L. (High Island); License #524125 Revocation of salesperson license, effective June 9, 2011; Assessment of an administrative penalty of \$8,000, entered June 9, 2011 acting or attempting to act as a broker or salesperson when the salesperson is not associated with a licensed broker and acting for that broker, in violation of Tex. Occ. Code §1101.351(c); engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness while acting as a broker or salesperson, falsely representing that she could do real property leasing and property management in Texas without an active Texas real estate license, by leasing real property on terms not approved by the owner, and by keeping payments under the lease, in violation of Tex. Occ. Code §1101.652(b)(2); failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(9); commingling money that belongs to another person with the license holder's own money, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(10); offering to sell or lease real property on terms other than those authorized by the owner of the real property or the owner's authorized agent, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(20); failing to surrender to the owner, without just cause, a document or instrument that is requested by the owner and that is in the license holder's possession, in violation of Tex. Occ. Code §1101.652(a)(7); a salesperson maintaining a trust account or acting as an escrow agent or failing to deliver money to the salesperson's sponsoring broker, in violation of 22 Tex. Admin. Code §535.159(f); a salesperson conducting brokerage activity in a name other than the name in which the license was issued, in violation of 22 Tex. Admin. Code §535.154(c) (as in effect in 2009); and a licensee failing to furnish a permanent mailing address to the Commission or to report all subsequent address changes within 10 days after a change of address, in violation of 22 Tex. Admin. Code §535.91(c) (as in effect in 2009 and 2010).

Carpenter, Tracy(Pflugerville); License #502102 Revocation of salesperson license ,effective June 29, 2011; Assessment of an administrative penalty of \$7,000, entered June 29, 2011 acting negligently or incompetently by failing to maintain proper escrow/trust accounts when dealing with client's monies, failing to properly account and remit monies to her clients, in violation of Tex. Occ. Code §1101.652(b)(1); engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness by failing to properly abide by the applicable rules and laws in property management real estate brokerage activities, in violation of Tex. Occ. Code §1101.652(b)(2) ; and failing with a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person, in violation of Tex. Occ. Code §1101.652(b)(9).

Addison, Kathleen Marie (Austin); License #604686 Agreed 1 year suspension of salesperson license fully probated for 18 months, effective June 24, 2011; Agreed administrative penalty of \$1,500, entered June 24, 2011 failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission that would indicate a violation of this chapter, in violation of Tex. Occ. Code §1101.652(a)(6); publishing or causing to be published an advertisement (web site) that misleads or is likely to deceive the public, tends to create a misleading impression that included unlicensed persons and failed to include her sponsoring broker, in violation of Tex. Occ. Code §1101.652(b)(23).

Garcia, Robert(San Antonio); License #N/A Agreed administrative penalty of \$20,000, entered June 28, 2011; Agreed to cease and desist all activities for which a person is required to first hold a real estate broker or salesperson license, entered June 28, 2011 acting and engaging in services defined as a real estate broker under Tex. Occ. Code §1101.002(a) without first holding an active license or a license issued by the Texas Real Estate Commission by acting as a Marketing Consultant, entering into Marketing and Advertising

Agreements with sellers of real property, locating prospective tenants with option to purchase, and using powers of attorney to engage in the real estate brokerage business, in violation of Tex. Occ. Code §1101.351.

Santos, Sara Alicia (Laredo); License #5345 Agreed reprimand of professional inspector license, entered June 16, 2011; Agreed administrative penalty of \$750, entered June 16, 2011 Agreed completion of a 16 hour core inspection course, entered June 16, 2011 acting negligently or incompetently in the performance and reporting of an inspection in violation of Tex. Occ. Code §1102.301 by (1) failing to find deficiencies during an inspection; and (2) failing to report deficiencies as required by 22 Tex. Admin. Code §535.222(a)(1) (As revised and in effect on March 1, 2009).

Osborne, Susan Beth (Whitesboro); License #594100 Agreed reprimand of salesperson license without admitting or denying what occurred, entered June 15, 2011; Agreed administrative penalty of \$2,000, entered June 15, 2011; agreed completion of a thirty (30) hour agency law course acting negligently or incompetently as a salesperson, in violation of Tex. Occ. Code §1101.652(b)(1); and, as an intermediary, disclosing confidential information or other information that a party specifically instructed the salesperson not to disclose, in violation of Tex. Occ. Code §1101.651(d)(3).

Weible, Mike Lee (Magnolia); License #4596 Agreed Reprimand of professional inspector license, effective June 10, 2011; Agreed administrative penalty of \$3,000, entered June 10, 2011; Agreed completion of a 30 hour continuing education course on or before September 30, 2011, effective June 10, 2011 acting negligently or incompetently in the performance and reporting of an inspection in violation of Tex. Occ. Code §1102.301 by (1) failing to find deficiencies during an inspection; and (2) failing to report deficiencies as required by 22 Tex. Admin. Code §535.222(a)(1); failing to follow the specific requirements in the scope of the Standards of Practice for roof covering material, in violation of 22 Tex. Admin. Code §535.228(e) and (g); failing to follow the specific requirements in the scope of the Standards of Practice for interior and exterior walls, ceiling and floors, in violation of Tex. Admin. Code §535.228(q); failing to follow the specific requirements in the scope of the Standards of Practice for service and entrance panels, branch circuits, connected devices and fixtures, in violation of 22 Tex. Admin. Code §535.229(a) and (c); failing to follow the specific requirements in the scope of the Standards of Practice for heating equipment, in violation of 22 Tex. Admin. Code §535.230(a); and failing to follow the specific requirements in the scope of the Standards of Practice for air conditioning equipment, duct system, chases and vents, in violation of 22 Tex. Admin. Code §535.230(b) and (d).

Aarant Realty Company (Garland); License #507400 Agreed administrative penalty of \$1,000, entered June 10, 2011 acting negligently or incompetently in the supervision of sponsored salespersons, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(1).

Aarant, James David (Garland); License #350137 Agreed reprimand of broker license, entered June 10, 2011 acting negligently or incompetently in the supervision of sponsored salespersons, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(1).

Race, Michael Ray (Houston); License #6448 Agreed administrative penalty of \$500, entered June 9, 2011 acting negligently or incompetently in the performance and reporting of an inspection in violation of Tex. Occ. Code §1102.301 by (1) failing to find deficiencies during an inspection; and (2) failing to report deficiencies as required by 22 Tex. Admin. Code §535.222(a)(1); failing to follow the specific requirements in the scope of the Standards of Practice by failing to inspect the roof covering material from the surface of the roof, in violation of 22 Tex. Admin. Code §535.228(e)(1), and failing to report departure from a full roof inspection, in violation of 22 Tex. Admin. Code §535.227(b)(5); failing to follow the specific requirements in the scope of the Standards of Practice for roof covering materials, in violation of 22 Tex. Admin. Code §535.228(e)(3)(B); and failing to

follow the specific requirements in the scope of the Standards of Practice by failing to report that there was a water stain on the ceiling, in violation of 22 Tex. Admin. Code §535.228(i)(1).

Loving, Stacia Ann (McKinney); License #525955 Agreed 1 year suspension of salesperson license fully probated for 2 years, effective June 20, 2011; Agreed administrative penalty of \$500, entered June 20, 2011 procuring a license by making a material misstatement of material fact in the application for a salesperson license in violation of Tex. Occ. Code §1101.652(a)(2); failing to provide within a reasonable time information requested by the Commission that relates to a formal complaint in violation of Tex. Occ. Code §1101.652(a)(6); failing to notify the Commission within 30 days of entry of final conviction or a plea of guilty or nolo contendere to a felony in violation of Tex. Occ. Code §1101.652(a)(9); and, failing to notify the commission of a change of licensee's mailing address, email address and phone number within 10 days in violation 22 Tex. Admin. Code §535.96(a).

Reece, Gerald Craig (Missouri City); License #7825 Agreed administrative penalty of \$2,000, entered June 7, 2011 acting negligently or incompetently in the performance and reporting of an inspection, in violation of Tex. Occ. Code §1102.301 by (1) failing to find deficiencies during an inspection; and (2) failing to report deficiencies as required by 22 Tex. Admin. Code §535.222(a)(1); failing to follow the specific requirements in the scope of the Standards of Practice for foundations, in violation of 22 Tex. Admin. Code §535.228(a)(4)(E) and (F); failing to follow the specific requirements in the scope of the Standards of Practice for exterior and interior glazing, in violation of 22 Tex. Admin. Code §535.228(m)(2)(C); failing to follow the specific requirements in the scope of the Standards of Practice for decks, in violation of 22 Tex. Admin. Code §535.228(s)(2)(C); failing to follow the specific requirements in the scope of the Standards of Practice for branch circuits, in violation of 22 Tex. Admin. Code §535.229(c)(3)(A) and (G); and failing to follow the specific requirements in the scope of the Standards of Practice for plumbing, in violation of 22 Tex. Admin. Code §535.231(c)(3)(F).

Irvin, Scott Martin (Grapevine); License #481791 Revocation of salesperson license, effective June 7, 2011; Assessment of an administrative penalty of \$30,000, entered June 7, 2011 while acting as a rental locator, failing to identify himself as a salesperson in placement of the advertisement and failing to disclose that payment of an advertised rebate offer is subject to consent of principal being represented, making the advertising misleading, in violation of Tex. Occ. Code §1101.652(b)(23); engaging in misrepresentation, dishonesty or fraud when selling or buying real property in the licensee's name, in violation of Tex. Occ. Code §1101.652(a)(3); failing to disclose prior to entry into a contract with a principal that one is a license holder in violation of 22 Admin. Code §535.144(b); making a false promise likely to influence a person to enter into a contract when license holder has no intention of keeping such promise, in violation of Tex. Occ. Code §1101.652(b)(5); pursuing a continued and flagrant course of misrepresentation or making false promises through an agent or otherwise, in violation of Tex. Occ. Code §1101.652(b)(6); and, soliciting for sale real property by means of a deceptive practice, in violation of Tex. Occ. Code §1101.652(b)(15).

Plaunty, Christopher W. (Beaumont); License #533790 Agreed 38 months suspension of salesperson license fully probated for 38 months, effective June 1, 2011; Agreed administrative penalty of \$1,500, entered June 1, 2011 entering a plea of guilty or nolo contendere to a felony and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal, in violation of Tex. Occ. Code §1101.652(a)(1); and failing to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of Tex. Occ. Code §1101.652(a)(9).

Burgan, William E. (Keller); License #1482 Assessment of an administrative penalty of \$5,000; Order to cease and desist all activities for which a person is required to first hold a license as a professional inspector, real estate inspector, or apprentice inspector. acting in the capacity of, engaging in the business of, or advertising or holding himself out as engaging in or conducting the business of a professional inspector after his professional inspector license was revoked, in violation of Tex. Occ. Code §1102.103.

Ashford, Joel Lawrence (Houston); License #474271 Agreed 25 months suspension of salesperson license fully probated for 25 months, effective June 1, 2011; Agreed administrative penalty of \$3,000, entered June 1, 2011 misrepresentation, or deceit or by making a material misstatement of fact in an application for a license, in violation of Tex. Occ. Code §1101.652(a)(2); failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission that would indicate a violation of this chapter, in violation of Tex. Occ. Code §1101.652(a)(6); and failing to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of Tex. Occ. Code §1101.652(a)(9)

Crook, Barbara Jane (Hurst); License #487906 Suspension of salesperson license until receipt of evidence of course completion, entered June 7, 2011 violating a term and condition of probation in an agreed order entered by the Commission by failing to complete a (30) hour agency law course on or before May 31, 2011.

The Pamela Walters Group, LLC (Tyler); License #9000611 Agreed 1 year probationary broker license issued, effective June 30, 2011; Agreed administrative penalty of \$1,000, entered June 30, 2011 engaging in unlicensed real estate brokerage activities through its owner, a duly licensed real estate broker, and in so doing demonstrated a lack of awareness and understanding that a LLC must first hold a license before engaging in real estate brokerage. Such conduct does not relieve a person or business entity from complying with the licensing statute. Applicant presented sufficient other evidence of honesty, trustworthiness and integrity that satisfied the Commission as required under Tex. Occ. Code §1101.354(2) and the issuance of a probationary license was appropriate.

Crush, Roy David (The Woodlands); License #496330 Agreed 2 year probationary salesperson license issued, effective June 22, 2011 commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).

Vanessa Manning-Jennings (Houston); License #613765 Agreed 2 year probationary salesperson license issued, effective June 21, 2011 commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).

Valdes, Vivian (Baytown); License #613562 Agreed 2 year probationary salesperson license issued, effective June 9, 2011 commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).

TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws.

Inside this issue: TALCB Working Groups Appointed (page1) From the Commissioner (Page 2) TALCB Meeting Agenda (Page 3)

TALCB Working Groups Appointed

In June, Chairman Luis DeLaGarza appointed two working groups that will have the challenging task of navigating the implementation of housekeeping measures and the Board's new regulatory program for Appraisal Management Companies. These groups will be meeting soon to provide input regarding these important pieces of legislation. TALCB thanks each of them for their willingness to assist the Board in this important manner.

House Bill 1146 (Appraisal Management Bill)

Chair - Walker Beard of El Paso

James E. Jacobs of Sherman

Sara Oates of Austin

Arturo Palacios of McAllen

Randy McFadden of Austin

Tim O'Brien of Bloomington MN

Resource Witnesses - John Chapman of Houston

House Bill 2375 (TALCB Clean Up Bill)

Chair - Sheryl Swift of Galveston

Joe Woller of San Antonio

Candace Cook of Buchanan Dam

Mark McAnally of Austin

Update your contact lists, TALCB has moved!

Main Line: 512-936-3001

Main Fax: 512-936-9366

Physical Address:

1700 N. Congress Ave. Suite 400

Austin, TX 78701

*Please note the our mailing address has stayed the same. All new fax numbers and directions to the new offices can be found on the TALCB website www.talcb.texas.gov on the "Contact Us" page.

From the Commissioner...

Please make sure you read the Administrator's Column on page two of the TREC Advisor to get an update on other issues regarding the agency, including the office move and the effect of SDSI status. Note that we have a new website address, new phone and fax numbers and a new physical address, but you will receive the same high quality service when you contact us.

TALCB held an emergency meeting on 22 June due to the fact that HB 2375 was passed and signed with an immediate effective date of 27 May 11. General Counsel Devon Bijansky prepared a set of rule proposals for emergency action, which were adopted. These included repeal of the application for and renewal of 'provisional' licenses, though those holding such may continue to practice until the license expires. At that time they must either qualify for a license



Douglas E. Oldmixon

based on sufficient experience, or seek a sponsor and become a trainee. Other items included reducing the late renewal period to 6 months for one year and adopting the new ASC reciprocity standards.

The next TALCB meeting is set for 19 August 11 at our new location in the first floor Commission Room. The draft meeting agenda is included in this newsletter for your consideration. It includes a more robust implementation of HB 2375 provisions and other normal Board business. You are welcome to attend the meeting.

In addition, working groups have been appointed including appraiser members from across Texas, and also AMC representatives, to make recommendations to the Board on implementation of both HB 2375 and HB 1146 – the Appraisal Management Company Registration and Regulation Act. AMC regulatory requirements, appraiser independence and market based fees are major topics that are affected by changes stemming from the federal Dodd-Frank bill. The ASC and other federal agencies still need to write the final rules required to implement the Dodd-Frank bill and that will take some time yet.

29 states that have passed AMC regulations under the guidance of the current law and the interim rules will need to revisit their laws as the final rules are issued. Your Board is seeking significant input from all affected parties on the guidance provided in the interim final rules and HB 1146, and your TALCB staff will be keeping a draft set of comments open as we move through the rule-making process. Watch our website for notices of posting of draft TALCB rules for public comments.

As always, we will be staying on top of all law changes and inform you as they affect Texas appraisers. We look forward to your meaningful involvement as we move forward.



**AGENDA FOR TEXAS APPRISERS LICENSING AND
CERTIFICATION BOARD MEETING**

Room 170, TALCB Headquarters Office
Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701
Friday, August 19, 2011, 10:00 a.m.

CALL TO ORDER

1. Call to order and pledges of allegiance
2. Discussion and possible action to excuse Board member absences, if any

MINUTES

3. Approval of minutes of the May 20, 2011, Board meeting

STAFF REPORTS

4. Staff reports by Commissioner, Deputy Commissioner, and Division Directors, which may include reports of monthly activities and statistical data for communications, licensing, education, enforcement, information technology and staff services; current topics related to regulation of real estate appraisers; discussion of topics raised by monthly reports; introduction of new employees; and questions by Board members to staff regarding issues raised by the staff reports

PUBLIC COMMENTS

5. Comments from members of the public regarding non-agenda items

RULEMAKING

6. Discussion and possible action to extend emergency action regarding:
 - a. 22 TAC §153.1, Definitions
 - b. 22 TAC §153.5, Fees
 - c. 22 TAC §153.16, Provisional License
 - d. 22 TAC §153.17, Renewal or Extension of Certification and License or Renewal of Trainee Approval
 - e. 22 TAC §153.27, Certification and Licensure by Reciprocity
7. Discussion and possible action to propose rule changes related to HB 2375 and HB 1146
8. Discussion and possible action to propose new rules: new rules regarding Appraisal Management Companies (22 TAC Chapter 159)

PENDING BUSINESS

9. Discussion and possible action regarding modification of appraiser certification and license numbers
10. Discussion and possible action regarding uniform and equal studies
11. Discussion and possible action regarding legislative housekeeping matters and other legislative items

12. Discussion and possible action to adopt a code of conduct for members of advisory committees and working groups

NEW BUSINESS

- 13. Discussion and possible action to adopt a budget for Fiscal Year 2012
- 14. Discussion and possible action to establish policies related to self-directed semi-independent status, including:
 - a. operating reserves
 - b. technology replacement reserves
 - c. a target reserve balance in excess of which the agency would reduce fees
- 15. Discussion and possible action to approve modifications to application and related forms

ENFORCEMENT MATTERS

16. Discussion and possible action to vacate the order revoking Aaron Paul Robertson's appraiser certification, TX-1338077-R

OTHER BUSINESS

- 17. Discussion and possible action to schedule future meetings
- 18. Adjourn

The Texas Appraiser Licensing and Certification Board may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code, §551.071.

For all the Board meeting materials and more about the Texas Appraisers Licensing and Certification Board go to www.talcb.texas.gov



Important Dates to Remember

Working Groups—Meeting dates will be posted on the TALCB website

Board Meeting—August 19th (In new building)

Inspector Insight



Inside this issue: From the Administrator (Page 1)

From the Administrator...

Please read my Administrator's column in the Advisor section for a discussion of other matters affecting the agency and very relevant to inspectors.

The Inspector Committee met on June 24th and began the meeting by making a special presentation to outgoing TREC Chair John Eckstrum in recognition of his exceptional support of the Inspector Advisory Committee during his 3 year tenure as Chair. (see the accompanying photo) The Committee also had a full agenda of items to consider and worked diligently to accomplish their many assigned tasks.

Most notably, the Committee heard extensive comments from inspectors and their trade group representatives regarding the proposed "penalty matrix" rule. Based on comments offered, this proposal is likely the most misunderstood initiative undertaken by the Committee to date. While the recommended rule clearly and reasonably constrains the Commission, while making enforcement and disciplinary matters more predictable for inspectors, the majority of comments indicated that few understood the tradeoffs and balances contained in the rule. After explanation and reiteration, the Committee recommended the rule to the full Commission for action. It will be on the agenda for TREC's meeting on August 1.

The Committee approved curriculum guidance for the educators to ensure key items are included in courses offered by



Former Chairman Eckstrum receives plaque from Chairman Wilcox and committee members at the June 24th meeting.

inspector education providers to meet the newly designated hours per topic requirements for pre-licensure education that will become effective September 1, 2011. After that date, inspectors will need to have taken a new 6 hour course in Texas Standards of Practice/Legal/Ethics Update, which will be counted as part of the 32 hours of continuing education currently required for each renewal.

Echoing the Committee Chair's previously expressed concerns, the legislative session was very disappointing as none of the items we were monitoring that would affect inspectors received a hearing in the relevant committees. The several industry trade groups of inspectors in Texas failed to present a united front on these matters, a situation that should be addressed and remedied as soon as possible.

However, the Commission was given "self-directed, semi-independent" status by passage of SB 1000. Expect to see a modest increase in fees to pay for the agency's required annual contribution to the state's general revenue fund. Even with this one-time small inconvenience, the agency gains an enormous amount of flexibility to shape its processes to take greatest advantage of future efficiencies. Watch for long-term changes you will hopefully appreciate, like development of more online tools and a much more friendly website, with better email tools to keep you informed. Stay tuned for more developments.

The Inspector Committee has a new address!

Main Line: 512-936-3000

Main Fax: 512-936-3283

Physical Address:

1700 N. Congress Ave.

Suite 400

Austin, TX 78701

*Please note, the mailing address has stayed the same. All fax numbers and directions to the new offices can be found on the TREC Website www.trec.texas.gov on the "Contact Us" page.