

MINUTES
Texas Real Estate Commission
July 16, 2001
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, July 16, 2001. In addition to Chairman Brodie, members present were, Lawrence Jokl, James Austin, John Walton, Louise Hull, Paul Jordan, Maria Gil and Kay Sutton. Mr. Cantu was absent.

Members of staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel, Alan Waters, Director of Staff Services, Loretta DeHay, Director of Enforcement, Glen Bridge, Director of Information Services, Gwen Jackson, manager of the Education Section, Michelle Bowens, manager of the Licensing Section, Lorie Deanda, manager of the Communications Section, and Patricia Holder, Executive Assistant.

After calling the meeting to order, Chairman Brodie led the attendees in the pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of the June 11, 2001, Commission meeting. Mr. Jokl, seconded by Ms. Gil, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item three, monthly staff reports; committee reports.

Ms. Hassumani introduced two new employees, Tina Brown in Licensing and Brenda Davis in Communications. She announced that Experior would host the test item writing session that was being held after the Commission meeting and on Tuesday, July 17. Ms. Hassumani reported that ARELLO was sponsoring a conference for real estate investigators to be held Tuesday through Thursday in Austin. She also reported on licensing activity for the month of June and the year to date.

Ms. DeHay introduced the field investigators who were in town for the ARELLO conference and an Enforcement Division conference to be held on Friday at the TREC office. Ms. DeHay referred to the E1 report that showed in the month of May 341 cases were opened and 297 were closed. A total of 605 cases was open at the end of the month. The average time for complaint resolution is 82 days for the month and 87 for the year to date.

Mr. Bridge reported that the number of on-line renewals was continuing to grow and that the programmers were working on developing an on-line original application.

Mr. Waters reported that the building renovations had been completed and the Commission had downsized to comply with the new lease. He also stated that Madison Commercial Group was the new lessor. Mr. Waters mentioned the annual fee review would be an agenda item for the September 10, 2001 Commission meeting. Mr. Waters reported on the meeting of the Texas State Agency Business Administrators' Association which he attended.

Mr. Austin reported that he and Mr. Jokl represented TREC at the ARELLO Southern District Conference in Biloxi, Mississippi. Both members complimented Ms. DeHay and Ms. Hassumani for their presentations during the conference.

Mr. Brodie reported that he would be appointing a task force to create procedures to evaluate the administrator. He presented TREC tie-tac/lapel pins to Commissioners Austin, Hull, Jokl, Jordan and Walton in

recognition of their service on the Commission.

The Chairman moved to agenda item four, general comments from visitors. There were no comments.

Chairman Brodie moved to agenda item five, discussion only of pending amendments to 22 TAC: (a) §535.51, concerning general requirements for a real estate license, (b) §535.91 and §535.92, concerning license renewals, (c) §535.101, concerning fees, (d) §535.208, concerning application for an inspector license, (e) §535.210, concerning fees, (f) §535.216, concerning renewal of license, (g) §535.403, concerning renewal of registration. Mr. Moseley presented the agenda item for discussion.

Mr. Brodie moved to agenda item six, discussion and possible action to adopt on an emergency basis amendments to 22 TAC: (a) §535.51, concerning general requirements for a real estate license, (b) §535.101, concerning fees, (c) §535.208, concerning application for an inspector license, (d) §535.210, concerning fees.

Mr. Moseley presented agenda items six(a) through (d) for discussion and possible action to adopt on an emergency basis. He explained that adopting these sections on an emergency basis would allow compliance with H.B. 695 and prevent confusion as to which forms should be used. These rules could be adopted on a permanent basis, with possible changes suggested by the public at the September 10, 2001 meeting.

Mr. Walton, seconded by Mr. Austin, moved to adopt the amendments to §535.51, concerning general requirements for a real estate license on an emergency basis. The motion was adopted by unanimous vote.

Ms. Sutton, seconded by Ms. Gill, moved to adopt the amendments to §535.101, concerning fees, on an emergency basis. The motion was adopted by unanimous vote.

Ms. Gil, seconded by Ms. Sutton, moved to adopt the amendments to §535.208, concerning application for an inspector license, on an emergency basis. The motion was adopted by unanimous vote.

Ms. Sutton, seconded by Ms. Gil, moved to adopt the amendments §535.210, concerning fees, on an emergency basis. The motion was adopted by unanimous vote.

The Chairman moved to agenda item seven, discussion and possible action to propose amendments to 22 TAC: (a) §535.62, concerning acceptable courses of study, (b) §535.71 and §535.72, concerning mandatory continuing education. Mr. Moseley presented agenda item seven(a) for discussion and possible action. Ms. Sutton, seconded by Mr. Jordan, moved to propose amendments to §535.62, concerning acceptable courses of study. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item seven(b) for discussion and possible action. Ms. Hull inquired about the possibility of accepting electronic course completion reports for online course. Comments were offered by Bennie McMahan, executive officer of the Texas Association of Realtors. Mr. Thorburn indicated the staff would prepare appropriate language for consideration by the Commission at the September 10th meeting. After discussion, Ms. Gil, seconded by Ms. Sutton, moved to propose the amendments to §535.71 and §535.72, concerning mandatory continuing education. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eight, discussion and possible action to approve use of a notice form required by House Bill 2033, 77th Legislature (2001). Mr. Jokl, seconded by Mr. Jordan moved to approve the use of the notice form, concerning unimproved property located in a certificated area of a utility service provider, as presented by staff. The motion was adopted by unanimous vote.

The Chairman moved to agenda item nine, discussion and possible action to establish the procedures for making appointments to the Texas Real Estate Broker-Lawyer Committee. Terms held by Fred Blair and Richard Melamed would be expiring on August 31, 2001. After discussion, Mr. Brodie announced that applications for the two positions would be accepted through August 31, 2001 and distributed to the members prior to the meeting on September 10, 2001, at which time the two vacancies would be filled..

Mr. Brodie moved to agenda item ten, discussion and possible action to authorize the Administrator to sign a memorandum of understanding with the Texas Real Estate Appraiser Licensing and Certification Board. Mr. Waters presented the agenda item for discussion. After discussion, Mr. Walton, seconded by Mr. Austin, moved to authorize Mr. Thorburn to sign the memorandum of understanding with the Texas Real Estate Appraiser Licensing and Certification Board. The motion was adopted by unanimous vote.

The Chairman moved to agenda item eleven, presentation on the Texas examination program; discussion and possible action to authorize the administrator to issue request for proposals for examination-related services. Mr. Thorburn introduced Katherine Bourque with Experior to report on the examination. She distributed a written report covering the first six months of 2001. The current exam program was discussed and comments were offered by Minor Peebles, the Real Estate Institute of Corpus Christi, and Gary Maler, Real Estate Center at Texas A&M University.

Mr. Thorburn presented the second half of the agenda item for discussion and possible action. Ms. Sutton, seconded by Ms. Gil, moved to authorize the Administrator to issue requests for proposals for examination-related services for a period commencing on September 1, 2002. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, discussion and possible action concerning Commission Policy Statements. There was discussion concerning the memorandum Mr. Thorburn had compiled containing policy statements recorded in the minutes of the Commission meetings from September 1989 forward. Mr. Jokl, seconded by Ms. Sutton, moved to rescind any policies made prior to 1989. The motion was adopted by unanimous vote. Staff was directed to prepare suggested policies to be discussed at the September Commission meeting.

Mr. Austin introduced his wife, Gloria and sons, Christopher and James. Mr. Brodie announced a break from 10:35 a.m.-10:54 a.m.

The Chairman moved to agenda item thirteen, consideration of complaint information. Ms. DeHay requested authorization to initiate investigations on the following persons for failure to provide information in connection with their license renewals: Janice L. Britton; Landis Spencer Cervenka; Gary Mel Edwards; Amy Westfall Johnson; Karen Lee Kemble; Dolly Lynn McLemore; Abraham Perez; Ruth M. Rodriguez; Joan Scott; Robin Renee Velez; and Kevin E. Wilson. Mr. Austin, seconded by Ms. Sutton, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following persons for failing to complete their Mandatory Continuing Education hours or pay the \$200 fee needed to renew a license within the time required by rule: John H. Allison; Kristy K. Bradfield; Jennifer Sue Coppock; Lynda Halloran Jennett; Patrick Joseph Kain; Gwendolyn W. Klein; Gary Michael Teinert; and Blake Allan Yarborough. Mr. Austin, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item fourteen, motions for rehearings: (a) in the Matter of Monty Dale McCormick, Hearing No. 01-132-010703; (b) in the Matter of Paul Edwin Skillern, Jr., Hearing No. 01-146-003035. At the request of Mr. Killern; his motion for rehearing was withdrawn.

The Chairman called for agenda item fourteen (a) in the Matter of Monty Dale McCormick, Hearing No. 01-132-010703. Mike Papaia, attorneys, appeared for Mr. McCormick, and Brad Bowman, staff attorneys, appeared for the Enforcement division. Mr. Papaia presented the motion for rehearing. Mr. Bowman presented the Enforcement division's response to the motion for rehearing. After discussion, Chairman Brodie called for

a vote on the motion for rehearing concerning the one month suspension of Mr. McCormick's inspector license. Mr. Austin, Ms. Sutton and Ms. Gil voted in favor of the motion. Mr. Walton, Mr. Jokl, Mr. Jordan and Ms. Hull voted against the motion. The motion for rehearing was overruled.

Mr. Brodie called for a vote on the motion for rehearing on the professional inspector application submitted by Mr. McCormick. Ms. Sutton and Ms. Gil voted in favor of the motion. Ms. Hull, Mr. Jordan, Mr. Austin, Mr. Jokl and Mr. Walton voted against the motion. The motion was overruled.

Chairman Brodie moved to agenda item fifteen, entry of orders in contested cases. No orders were presented for entry.

Mr. Brodie moved to agenda item sixteen, an executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071. The executive session began at 11:40 a.m.

The meeting was called back to order at 12:00 noon by Chairman Brodie. Mr. Brodie moved to agenda item seventeen, discussion and possible action to authorize payments from recovery funds.

Mr. Moseley presented the following recovery fund cases for discussion and possible action:

RF 01-012 LP Endeavors, Ltd. V. Tanya Dean Eastman, in the amount of \$28,850 actual damages and \$7,080 in attorneys fees. Ms. Sutton, seconded by Ms. Gil, moved approval. The motion was adopted by unanimous vote.

IRF 01-002 William Otton and Diana Otton v. Rodney Weldon Halliburton, in the amount of \$7,500 actual damages. Mr. Jordan, seconded by Mr. Austin, moved approval. The motion was adopted by unanimous vote.

RF 01-013 William Otton and Diana Otton v. Marcia Cobb Venzon, in the amount of \$50,000 actual damages. Mr. Jordan, seconded by Mr. Austin, moved approval. The motion was adopted by unanimous vote.

Mr. Jokl introduced his wife, Rosalyn, and Ms. Gil introduced her husband, Jose, and her children. The next regularly scheduled meeting of the Commission is September 10, 2001. The meeting was adjourned at 12:10 p.m.

APPROVED this the 10th day of September, A.D., 2001.

Chairman

ATTEST: _____