

MINUTES  
Texas Real Estate Commission  
September 10, 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, September 10, 2001. In addition to Chairman Brodie, members present were Kay Sutton, Maria Gil, Louise Hull, Larry Jokl, Paul Jordan and John Walton . James Austin and Mick Cantu were absent.

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; Lyndon Clements of Information Services, Gwen Jackson, manager of the Education section, Michelle Bowens, manager of Licensing section, Lorie Deanda, manager of the Communication section, and Pat Holder, Executive Assistant.

The Chairman led the attendees in the pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of the July 16, 2001 Commission meeting. Mr. Jokl, seconded by Ms. Sutton, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item three, staff reports; committee reports. Ms. Hassumani reported that the L1 report shows applications received are up from last fiscal year; the L2 report shows TREC has the highest number of total licensees since 1997. Ms. Hassumani also stated that the on-line renewal counts are up by 7.3%.

Ms. DeHay, Director of Enforcement, introduced Rob Jones, a new staff attorney. Ms. DeHay reported that complaint statistics are average for this year.

Mr. Lyndon Clements, representing Information Services, reported on the I1 report and discussed the difference between pages viewed and documents accessed on the web site.

Mr. Waters, Director of Staff Services, introduced a new employee, Valerie Holt. He reported on the audit that was performed by the State Auditor's Office on TREC.

Commissioner Jokl, ex officio member of the Real Estate Research Center at Texas A&M Advisory Committee, reported on the first meeting in which they worked on the budget and staff made presentations. Mr. Jokl also reported on a research project being conducted for Mexico at the Center.

Mr. Thorburn, Administrator, introduced the latest new video, "A Visit To The Real Estate Commission", by the Real Estate Research Center.

Chairman Brodie moved to agenda item four, general comments from visitors. There were no comments from members of the public.

Chairman Brodie moved to agenda item five, discussion and possible action to adopt 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; (h) §535.62, concerning acceptable courses of study; (i) §535.71 and §535.72, concerning mandatory continuing education.

Mr. Moseley presented the agenda items for discussion and possible action. After discussion, Mr. Walton, seconded by Mr. Jokl, moved to adopt amendments (a) through (i). The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item six, discussion and possible action to propose (a), amendments to 22 TAC §§537.11, 537.21, 537.22, 537.28, 537.33, 537.37, 537.41, 537.45 and 537.46; new §537.47 and §537.48, and repeal of §537.29 and 537.38, concerning standard contract forms. Avis Wukash addressed changes made by the Broker-Lawyer committee to the draft forms. Don Harvey also of the Broker-Lawyer Committee made comments. After discussion, Ms. Sutton, seconded by Ms. Hull, moved to propose the amendments. The motion was adopted by unanimous vote. Mr. Jordan abstained from voting.

Mr. Moseley presented agenda item six (b), amendment to 22 TAC §535.208 and §535.400, concerning online license and registration applications. Ms. Sutton, seconded by Ms. Gil, moved to propose the amendment. The motion was adopted by unanimous vote.

Mr. Moseley presented item six (c), amendment to 22 TAC §535.72, concerning reporting of MCE course completion. Ms. Gil, seconded by Ms. Sutton, moved to propose the amendment. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item six (d), amendment to 22 TAC §535.215, concerning inactive inspector status. Ms. Sutton, seconded by Ms. Gil, moved to propose the amendment. The motion was adopted by unanimous vote.

Chairman Brodie called for a report from Ms. Sutton on the meeting of the sub committee appointed by Chairman Brodie to formalize and systematize the process of reviewing the Administrator's evaluation. After the report, the Chairman stated no action was needed.

The Chairman moved to agenda item seven, discussion and possible action to approve Commission policy statements. Dr. Thorburn presented the Commission policy statements for discussion: (1) taking part in Real Estate Courses; (2) State Bar CE Courses for which Real Estate MCE credit is given; (3) Commissioners Compensatory Per Diem (\$75.00); (4) Commissioner Travel; (5) Commissioner Out of State Travel ; (6) Officially Representing TREC at ARELLO Meetings; (7) Rebates; (8) Reciprocity; (9) Other Statements. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to approve policy statements 1a (subject to Opinion letter from Ethics Commission), 2a, 3b, 4 thru 9, including the language "Commissioners may request compensatory per diem for any day during which they represent the Commission in an official capacity" from policy statement 3.

Chairman Brodie moved to agenda item eight, discussion and possible action to authorize administrator, director of enforcement and hearings examiner to act under Texas Civil Statutes, Articles 6573a and 6573b.

Mr. Moseley presented H.B.695 which permits the members of the Commission to authorize the administrator to delegate the administrator's authority to another employee of the Commission and allows the hearings examiner to conduct hearings to consider imposition of an administrative penalty and to enter orders disposing of contested cases. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to authorize the Administrator to delegate his authority regarding imposition of administrative penalties to the Director or Enforcement and authorize the Hearings Examiner to enter orders in contested cases imposing administrative penalties and to enter orders under the Residential Service Company Act. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item nine, discussion and possible action to appoint administrator to the Steering Committee for Electronic Occupational Licensing Transactions, pursuant to S.B. 645, 77<sup>th</sup> Legislature (2001), Mr. Thorburn presented this action for discussion. Mr. Jokl, seconded by Ms. Sutton, moved to appoint the administrator to the Steering Committee for Electronic Occupational Licensing Transactions. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item ten, annual review of fees and estimated revenues; approval of operating budget for FY2002. Mr. Waters presented the projected revenues for fiscal year 2002 for discussion. Mr. Thorburn made comments supporting the FY 2002 projected revenues. Ms. Sutton, seconded by Ms. Hull, moved to approve the operating budget for FY 2002. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eleven, approval of travel for October ARELLO meeting, Mr. Jokl, seconded by Ms. Gil, moved that the Chairman and Vice Chairman and/or their designate attend the ARELLO meeting. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, discussion and possible action to approve training for the investment officer pursuant to the Public Funds Investment Act, Texas Government Code, §2256.005. Alan Waters presented item for discussion. Ms. Sutton, seconded by Mr. Jokl, moved to approve training concerning the Public Funds Investment Act for Alan Waters, Director of Staff Services, and Karen Alexander, Chief Accountant. The motion was adopted by unanimous vote.

Chairman Brodie announced a break from 10:35 a.m. - 10:46a.m.

Chairman Brodie moved to agenda item fourteen, discussion and possible action to make appointment to Mortgage Broker Advisory Committee. Ms. Gil, seconded by Mr. Jokl, moved to reappoint Keno Torres to serve on the Mortgage Broker Advisory Committee until February 1, 2004. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item thirteen, discussion and possible action to make appointments to Texas Real Estate Broker/Lawyer Committee. After the Chairman acknowledged all the candidates, Bob

Baker commented regarding his application. Norman Dierschke made comments regarding his application. Lloyd Hampton made comments regarding his application, Rob Orr made comments concerning his application. Additional comments were made by Bennie McMahan and Don Harvey. After discussion, the Chairman polled the Commissioners and the decision was made to interview Bob Baker of Plano, Texas; Rob Orr of Burleson, Texas and Norman Dierschke of San Angelo, Texas. Two of the three nominees would be chosen as members of the Broker-Lawyer Committee at the next meeting, October 29, 2001.

Mr. Jokl introduced Gary Mahler of the Real Estate Research Center.

Chairman Brodie moved to agenda item fifteen, complaint matters and contested cases, Ms. DeHay requested authorization to initiate investigations on the following persons for failure to provide information in connection with their license renewals: Dan Ray Bougher; Christine Campbell; Reba Rast Kester; Samuel Ma; and Marianne S. Shook. Mr. Walton, seconded by Mr. Jokl, 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 the rule: Guy Ramsey Carter; Fannie Ruth Dooley; Kay Castellaw Potter, Awilda Irizarry Powell; Karen L. Turcotte; and Kim Newby Wilkerson. Ms. Hull, seconded by Mr. Jokl, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate an investigation of Fred Contreras for making a material misstatement of fact in an application for a real estate license. Mr. Walton, seconded by Mr. Jokl, moved to initiate the investigation. The motion was adopted by unanimous vote.

Ms. DeHay request authorization to initiate investigations on the following persons for paying a commission to or associating with an unlicensed person: Suzanne L. Cook; and Lonnie L. Wiggins. Mr. Jokl, seconded by Ms. Hull, moved to authorize the investigations. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item 16, motion for rehearing in the matter of Bryan Lee Anthony, Hearing No. 01-190-011788. Charles A. Kreger, Attorney, appeared for Bryan Lee Anthony, and Brad Bowman, staff attorney, appeared for the Enforcement division. Mr. Kreger 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. The Commissioners voted against the motion for rehearing, the motion was denied.

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

Chairman Brodie moved to agenda item eighteen, executive session to discuss pending litigation pursuant to Texas Government Coded, §551.074(a)(1) 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 12:01 p.m. The executive session ended and the open meeting resumed at 12:14 p.m.

Chairman Brodie moved to agenda item nineteen, discussion and possible action to authorize payments from the recovery funds or other action on items considered in executive session. Mr. Moseley presented the following claims to be paid without contest:

RF 01-014, Terry Abram v. Jeffery Ty Ballard, in the amount of \$50,000 in actual damages. Ms. Sutton, seconded by Mr. Jokl, moved to approve payment. The motion was adopted by unanimous vote.

RF 01-016, Tracy Felder v. Alberta Edwards, in the amount of \$2,005.36 in actual damages and \$1,824.08 in attorney fees. Mr. Jordan, seconded by Mr. Jokl, moved to approve payment. The motion was adopted by unanimous vote.

RF 01-017, Benjamin Lopez and Maria Lopez v. Irene Russo, in the amount of \$17,342.13 and \$7,500.00 in attorney fees. Mr. Walton, seconded by Ms. Sutton, moved to approve payment. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twenty, schedule future meeting and adjourn, No action.

The next regularly scheduled meetings of the Commission will be October 29, 2001, December 3, 2001 and February 4, 2002. Mr. Walton, seconded by Ms. Gil, moved that the meeting be adjourned. The motion was adopted by unanimous consent. The Chairman adjourned the meeting at 12:26 p.m.

APPROVED this the 29<sup>th</sup> day of October, A.D. 2001.

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Chairman

ATTEST: \_\_\_\_\_  
Administrator