

MINUTES
Texas Real Estate Commission
December 3, 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, December 3, 2001. In addition to Chairman Brodie, members present were Kay Sutton, James Austin, Louise Hull, Larry Jokl, Mick Cantu, Maria Gil, Paul Jordan and John Walton.

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 Licensing section; Lorie Deanda, manager of the Communication section; and Patricia Holder, Executive Assistant.

The Chairman led the attendees in the pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of the October 29, 2001 Commission meeting. Ms. Gil, seconded by Ms. Sutton, moved to approve the minutes as mailed. The motion was adopted by unanimous vote. Mr. Jokl, seconded by Mr. Austin, moved to approve the minutes from the October 28, 2001 meeting. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item three, monthly staff reports and committee reports. Ms. Hassumani presented various licensing and education reports. She also reported on the two additional toll-free phone lines in the Communications Department and the hiring of a full time employee to assist in answering the toll-free lines. Ms. Hassumani stated that the procedure for accepting online applications for an original salesperson's license was on schedule and should be up and running in January.

Ms. DeHay, Director of Enforcement, reported on the complaint statistics for the previous month. There was discussion concerning the time it takes to resolve a complaint and that statistics showed that more cases were being resolved.

Mr. Bridge, Director of Information Services, reported on the status of online renewals and online applications. He encouraged people to subscribe to the TREC-L service. Mr. Thorburn complimented the Information Services department on the timely implementation of changes brought about by H.B. 695 and the development of the online renewal/application functions on the web.

Mr. Waters reported that the State Auditor's Office had conducted an audit involving Texas Online process for brokers and salespersons renewals. TREC's revenue monitoring and reconciling process were assessed as adequate. The completed report will be released in February 2002. There was discussion concerning the S1 report.

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

Mr. Thorburn commented that the Strategic Plan process would be starting after the first of the year and stated that a schedule for public meetings would be discussed at the February meeting. There was discussion concerning the types of reports given to the Commissioners at each meeting.

Chairman Brodie moved to agenda item five, discussion and possible action to adopt: (a) §535.72, concerning reporting of MCE course completion; (b) §535.208 and §535.400, concerning online license and registration applications.

Mr. Moseley presented agenda item five(a) for discussion and possible action. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to adopt the amendment to §535.72, concerning reporting of MCE course completion. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item five(b) for discussion and possible action. After discussion, Ms. Gil, seconded by Ms. Sutton, moved to adopt the amendments to §535.208 and §535.400, concerning online license and registration applications. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item six, discussion and possible action to propose an amendment to §535.51, concerning requirements for a license. Mr. Moseley presented the agenda item for discussion and possible action. Ms. Sutton, seconded by Ms. Gil, moved to propose the amendment to §535.51. After discussion, the motion was adopted with Ms. Gil, Ms. Hull, Mr. Cantu, Mr. Austin, Ms. Sutton, Mr. Jordan and Mr. Walton voting in favor of the motion. Mr. Jokl abstained.

The Chairman moved to agenda item seven, discussion and possible action to approve the schedule of rule reviews for 2002. Mr. Walton, seconded by Ms. Sutton, moved to approve the schedule as submitted. The motion was adopted by unanimous vote.

Chairman Brodie presented Mr. Moseley, who would be retiring at the end of December, with a resolution honoring him for his years of service to the Commission and State of Texas. The resolution was adopted by unanimous vote. Mr. Waters presented Mr. Moseley with a picture of the Capitol Building as a memento of his 27 years of service with TREC.

Mr. Brodie moved to agenda item eight, discussion and possible action to approve recovery fund investment policies under The Public Funds Investment Act, §2256.005, Texas Government Code and to designate a chief audit executive under The Texas Internal Auditor Act, §2102.001, Texas Government Code. Mr. Waters presented the first part of the agenda item for discussion and possible action. Ms. Sutton, seconded by Mr. Austin, moved to approve the recovery fund investment policies as presented. The motion was adopted by unanimous vote.

Mr. Waters presented the second part of agenda item eight for discussion and possible action. Mr. Walton, seconded by Ms. Gil moved to designate Mr. Thorburn as the Chief Audit Executive. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item nine, 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: Jeanie Lorraine Blaskovich; Walter Lee Cook; Carolyn Keith Daniels; Sheri Jean Eige; Gloria Gertman; Lizabeth Gayle Hobbs; Takuya Iwamoto; Laura K. Lane and Elaine Virginia Vauthier. Ms. Sutton, seconded by Ms. Gil, 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: Timothy J. Jordan; Len Dan Kerr; Gary Allen Kukis; Georgia Gant Lawley; Kelly Lynn Minchen; Ejike Edward Okpa, Jr.; Stephen A. Pyhrr; Robert H. McKenzie Smith and Hossein Gholi Zolfaghari. Ms. Sutton, seconded by Mr. Austin, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate an investigation of Thomas Patrick Flood based on information obtained from a complaint filed against an unlicensed person for paying a commission to or associating with an unlicensed person in violation of Sections 15(a)(6)(F) and (S) of the Real Estate License Act. After discussion, Mr. Jokl, seconded by Mr. Austin, moved to authorize the investigation. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate an investigation of Mary Marie Autry based on information obtained from a judgment against Mary Autrey d/b/a Mary Autrey and Associates and Wanda Ragsdale for engaging in misrepresentation or dishonest or fraudulent action in violation of Section 15(a)(3) of the Real Estate License Act, Article 6573a, Texas Civil Statutes. Ms. Gil, seconded by Mr. Cantu, moved to authorize the investigation. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item ten, Motion for Rehearing in the Matter of Alvin Eugene Terry, Hearing No. 01-229-002249. The Chairman announced a recess at 9:37 a.m. for a prehearing conference.

The meeting was called to order at 10:17 a.m. by Mr. Cantu, the presiding member for the rehearing. Mr. Terry appeared pro se. Mr. Terry presented his motion for rehearing and a motion for probation of the revocation. Brad Bowman, staff attorney, appeared for the Enforcement Division and presented the response to Mr. Terry's motions. After discussion, Mr. Cantu called for a vote on the motion for rehearing. The motion was overruled by unanimous vote.

After discussion, the Mr. Cantu called for a vote on the motion for probated revocation. The terms of the motion would be as follows: probation would be for two years, within this period the default judgment against Mr. Terry must be vacated or paid and copies of all orders and pleadings in the appeal of the judgment are to be sent to the Enforcement Division, a Real Estate Law course must be taken and the usual terms and conditions set by Enforcement must be met. Mr. Jordan requested that any action on vacating the judgment must be started within the 60 days following the date of the order. Mr. Cantu called for a vote on the motion as amended by Mr. Jordan. The motion was granted by majority vote, with Mr. Jordan voting against the motion. The order would be prepared by Enforcement and entered by December 7, 2001.

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

Chairman Brodie moved to agenda item twelve, 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 11:00 a.m. The executive session ended and the open meeting resumed at 11:10 a.m.

Chairman Brodie moved to agenda item thirteen, 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 02-003, Chet Bryniarski v. Arthur Williams, in the amount of \$9,309 in actual damages. Ms. Gil, seconded by Ms. Sutton, moved to approve payment. The motion was adopted by unanimous vote.

RF 02-004, Arthur Erdmann, Jr. v. Thomas J. Desiena, in the amount of \$44,000 in actual damages and \$6,000 in attorney fees. Ms. Sutton, seconded by Mr. Jordan, moved to approve payment. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item fourteen, scheduling of future meetings. After discussion, the meeting scheduled February 4, 2002 was changed to February 11, 2002 by unanimous agreement. Other meetings scheduled are April 10, 2002 in Fort Worth, and June 3, 2002, July 15, 2002 and September 9, 2002 in Austin. The Chairman adjourned the meeting at 11:15 a.m.

APPROVED this the 11th day of February, A.D. 2002.

C. Michael Brodie
Chairman

ATTEST: _____
Wayne Thorburn
Administrator