

MINUTES  
Texas Real Estate Commission  
June 3, 2002  
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 9:04 a.m., Monday, June 3, 2002. In addition to Chairman Brodie, members present were Kay Sutton, James Austin, Louise Hull, Larry Jokl, Mick Cantu, Paul Jordan, and John Walton. Maria Gil was absent.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Loretta DeHay, General Counsel; Linda Bayless, Director of Enforcement; Alan Water, Director of Staff Services; Glen Bridge, Director of Information Services; 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 April 10, 2002 Commission meeting. Mr. Walton, seconded by Mr. Austin, moved to approve the minutes as mailed. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item three, monthly staff reports; committee reports. Ms. Hassumani, gave an overview of various reports. Ms. Hassumani also reported that the number of licensees was at the highest it has been in the last five years.

Ms. Bayless, Director of Enforcement, reported on the Enforcement division's complaint statistics and administrative actions for the previous month. Ms. Bayless also introduced Lynn Latombe, the new attorney, and Michele Karcher, a new legal assistant.

Mr. Bridge, Director of Information Services, gave an overview on statistics regarding online renewals for the calendar year.

Mr. Alan Waters, Director of Staff Services, summarized various staff services reports. He also reported that we are involved in the planning workshop on e-Procurement.

Mr Thorburn, Administrator, gave an update on the status of the transfer of examination services to PSI Examination Services from Experior Assessments, effective September 1, 2002. On July 22-24, 2002, PSI will sponsor four workshops for educators, licensees and anyone interested in the testing process.

Chairman Brodie moved to agenda item four, general comments from visitors. Comments were offered by Larry Niemann concerning continuing education on terrorism related issues, and

by Ken Capelle concerning real estate errors and omissions insurance.

Chairman Brodie moved to agenda item five, discussion concerning availability of homeowner's insurance upon sale of property where a water damage claim has been made and related matters. Chairman Brodie introduced José Montemayor, Commissioner of The Texas Department of Insurance. Mr. Montemayor addressed insurance issues on claims regarding water damage, mold, and mildew. Mr. Larry Foster discussed water penetration, and Mr. Ron Walker with the Texas Association of Realtors made general comments regarding mold disclosure.

With approval of the Commissioners, Chairman Brodie moved out of order to agenda item eleven, discussion and possible action regarding use of the Alternative Instructional Methods Reporting Form to verify that a person taking an examination by use of a computer to complete a course offered by correspondence or alternative delivery method is the same person who seeks MCE credit, and related matters. Ms Hassumani presented agenda item eleven for discussion. After opening statements, Mr. Albert Lilly with 360.com, Mr. Evan Butterfield with Dearborn Publishing Company, Mr. Thomas with Compu Taught, Mr. Rick Knowles with Capital Real Estate School, and Mr. Wayne Morgan with Austin Institute of Real Estate all commented on the issue. No action was taken on the matter; however, Chairman Brodie will appoint an education task force that will look into the matter along with other education-related issues.

Chairman Brodie returned to agenda item six, discussion and possible action to propose (a) amendments to 22 TAC §535.214(a), concerning examinations; and (b) amendments to 22 TAC §535.71(c)(8) regarding mandatory continuing education: approval of providers, courses and instructors.

Ms. DeHay presented agenda item six (a) for discussion and possible action. Ms. Sutton, seconded by Mr. Austin moved to propose the amendment to 22 TAC §535.214 concerning examinations. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item six (b) for discussion and possible action. Mr. Austin, seconded by Ms. Hull, moved to propose the amendment to 22 TAC §535.71(c)(8) regarding mandatory continuing education: approval of providers, courses and instructors. The motion was adopted by unanimous vote. Mr. Jordan was not present for the vote.

Chairman Brodie moved to agenda item seven, discussion and possible action to adopt: (a) amendments to 22 TAC §535.101, concerning fees; (b) amendments to 22 TAC §535.210, concerning fees; (c) amendments to 22 TAC 533.38, concerning practice and procedure; (d) amendment to 22 TAC §535.63, concerning education and experience requirements for a license; (e) amendment to 22TAC §535.65, concerning education, experience, educational programs, time

periods and type of license; and (f) amendment to 22 TAC §535.218, concerning inspector continuing education.

Ms. DeHay presented agenda item seven (a) for discussion and possible action. Mr. Austin, seconded by Mr. Walton, moved to adopt 22 TAC §535.101, concerning fees. The motion was adopted by unanimous vote.

Ms DeHay presented agenda item seven (b) for discussion and possible action. Mr. Austin, seconded by Ms. Sutton, moved to adopt amendments to 22 TAC §535.210, concerning fees. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item seven (c) for discussion and possible action. Ms. Sutton, seconded by Mr. Austin, moved to adopt amendments to 22 TAC §533.38, concerning practice and procedures. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item seven (d) for discussion and possible action to amend 22 TAC §535.63, concerning education and experience requirements for a license. Mr. Austin, seconded by Ms. Hull, moved to adopt the amendment to 22 TAC §535.63. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item seven (e) for discussion and possible action to amend 22 TAC §535.65, concerning education, experience, education programs, time periods and type of license. Ms. Hull, seconded by Mr. Austin, moved to adopt the amendment to 22 TAC §535.65. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item seven (f) for discussion and possible action to amend 22 TAC §535.218, concerning inspector continuing education. Ms. Sutton, seconded by Mr. Walton, moved to adopt the amendment to 22 TAC §535.218. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eight, discussion and possible action to adopt review of: (a) Chapter 531: Canons of Professional Ethics and Conduct for Real Estate Licenses (b) Chapter 533: Practice and Procedure; (c) Chapter 534: General Administration; (d) Chapter 537: Professional Agreements and Standard Contracts. Mr. Austin, seconded by Ms. Sutton, moved to adopt reviews of Chapter 531, Chapter 533, Chapter 534, and Chapter 537. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item nine, discussion and possible action to adopt Strategic Plan for 2003-2007, Mr. Thorburn, presented the plan for discussion. The first item was a request to accept the prioritization of strategic plan initiatives to include (1) Human Resources, (2) Real Estate Education, (3) Licensing, (4) Enforcement, (5) Communications, and (6) Technology. Mr. Walton, seconded by Ms. Sutton, moved to accept the prioritization of initiatives.

The motion was adopted by unanimous vote.

The second item for discussion was approval of Long Term Goals recommended by the staff for inclusion in the strategic plan. After discussion, Mr. Austin, seconded by Ms. Sutton, moved to approve the Long Term Goals in the strategic plan as amended. The motion was adopted by unanimous vote.

The third item was discussion about including other suggested long-term goals in the strategic plan. Ms. Sutton, seconded by Mr. Austin, moved to add numbers one, two, three, five, six and twenty-one from the suggested long term goals list to the strategic plan. The motion was adopted by unanimous vote.

The fourth item for discussion was whether to include two additional long term goals-regarding referrals in the Residential Service Company Act and recognition of commercial inspectors in the Real Estate License Act. Mr. Austin, seconded by Ms. Sutton, moved to accept the two items for inclusion. The motion was adopted by unanimous vote.

The final item was approval of the strategic plan with minor, non-substantive editing by staff. Mr. Walton, seconded by Ms. Hull, moved to approve the plan. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, discussion and possible action to adopt the annual internal audit plan for fiscal year 2002. Mr. Rene Gonzalez presented the item for discussion. Ms. Sutton, seconded by Mr. Jordan, moved to adopt the annual internal audit plan for fiscal year 2002. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item ten, discussion and possible action to adopt a revised Notice Regarding Hazards and Repairs. Ms. DeHay presented the item for discussion and possible action. Mr. Austin, seconded by Ms. Hull, moved to adopt the revised Notice Regarding Hazards and Repairs. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item thirteen, consideration of complaint information. Ms. Bayless requested authorization to initiate an investigation of Cheri Lee Chalk for failure to provide information in connection with her license renewal as required by 22 TAC §535.91(a). Ms. Sutton, seconded by Mr. Austin, moved to authorize the investigation. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item fourteen, motion for rehearing in the Matter of Blake Allan Yarborough, Hearing File No. 02-93-020069. After discussion, Mr. Cantu presented the motion for rehearing. The Commissioners granted the rehearing and it was scheduled for July 22, 2002.

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

was presented for entry.

Chairman Brodie moved to agenda item sixteen, 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 12:12 p.m. The executive session ended and the open meeting resumed at 12:29 p.m.

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

RF02-015, Sarah Woodard, Richard & Gail Keene v. Robinson Management Corporation, in the amount of \$50,000 in actual damages. Mr. Jordan, seconded by Mr. Walton, moved to approve payment. The motion was adopted by unanimous vote.

RF 02-017, Terry Starr v. Patrick Moore, in the amount of \$8,655 in actual damages and \$2,000 in attorney fees. Ms. Hull, seconded by Ms. Sutton, moved to approve payment. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eighteen, schedule future meetings. Meetings were previously scheduled to February 24, 2003, and no further dates were selected at this time. The Chairman adjourned the meeting at 12:31 p.m.

APPROVED this the 22<sup>nd</sup> day of July A.D. 2002.

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C. Michael Brodie  
Chairman

ATTEST: \_\_\_\_\_  
Wayne Thorburn  
Administrator