

MINUTES  
Texas Real Estate Commission  
April 28, 2003  
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, April 28, 2003. In addition to Chairman Brodie, members present were Paul Jordan, Maria Gil, Mick Cantu, James Austin, Larry Jokl, Kay Sutton, Louise Hull and John Walton.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Loretta DeHay, General Counsel; Linda Bayless, Director of Enforcement; Alan Waters, Director of Staff Services; Lyndon Clements, 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 February 24, 2003, Commission meeting. Ms. Sutton, seconded by Mr. Jokl, 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 presented the various licensing reports. Ms. Bayless reported on the number of open cases and administrative actions taken during the reporting period. Mr. Clements reported on the number of web pages viewed and that more than 50% of the salespersons' applications were received on line. Mr. Waters reported that the S1 report had an added column which showed the 7% savings required by the legislature.

The Chairman moved to agenda item four, general comments from visitors. No comments were offered.

Mr. Brodie moved to agenda item five, discussion and possible action to adopt: a. Amendment to §535.2, concerning Broker's Responsibility, b. Amendments to §535.71, concerning Mandatory Continuing Education: Approval of Providers, Courses and Instructors, and c. Amendments to §535.403, concerning Renewals of Registration of easement or right-of-way agents. Ms. DeHay presented the agenda item for discussion and possible action to adopt. After discussion, Mr. Austin, seconded by Mr. Jokl, moved to adopt the amendments to §535.2, concerning Broker's Responsibility, as presented. The motion was adopted by unanimous vote. Mr. Austin, seconded by Ms. Sutton, moved to adopt the amendments §535.71, concerning Mandatory Continuing Education, as presented. The motion was adopted by unanimous vote. Mr. Walton, seconded by Mr. Austin, moved to adopt the amendments to §535.403, concerning renewal of Registration of easement or right-of-way agents, as presented. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item six, discussion and possible action to schedule rule reviews for 2003 and propose review of: a. Chapter 541, concerning Rules Relating to the Provisions of Texas Civil Statutes, Article 6252-13c, concerning criminal convictions and b. Chapter 535, concerning Provisions of The Real Estate License Act (§§535.1-.81). Ms. DeHay presented the agenda item for discussion and possible action to propose. After discussion, Ms. Hull, seconded by Mr. Austin, moved to propose the schedule of reviews as presented. The motion was adopted by unanimous vote.

The Chairman moved to agenda item seven, legislative updates. Mr. Thorburn presented an overview of the several bills which were of interest to the Real Estate Commission.

Mr. Brodie moved to agenda item eight, report on licensee survey conducted by the Real Estate Center at Texas A&M University. Jack Harris, Real Estate Center at Texas A&M University, presented the report.

Chairman Brodie moved to agenda item nine, the report on the Education Task Force license survey conducted by the Real Estate Center at Texas A&M University. Commissioner Hull, Chair of the task force presented an oral report and Gary Maler, Associate Director-Real Estate Center at Texas A&M University, gave a PowerPoint presentation on the survey.

The Chairman moved to agenda item ten, discussion and possible action to appoint members to the Texas Real Estate Commission Inspector Committee. Ms. Hull, seconded by Mr. Walton, nominated Vernon Davis of Waco. Mr. Jokl, seconded by Mr. Austin, nominated Billy Meyerdirk of Austin. Mr. Austin, seconded by Ms. Sutton, nominated Brian Murphy of Arlington. The three nominees were appointed by unanimous vote.

Mr. Brodie moved to agenda item eleven, an executive session to discuss pending litigation concerning 22 TAC §535.2(d) regarding broker responsibility and other 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 10:10 a.m. The executive session ended and the open meeting resumed at 10:21 a.m.

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

RF 03-005, Marta Polanco v. Rick O'Con, in the amount of \$4,710 in attorney fees. Ms. Gil, seconded by Mr. Jokl, moved to approve payment. The motion was adopted by unanimous vote.

RF 03-008, Cassandra Meador v. John F. Bass, in the amount of \$2,550 in actual damages and \$750 in attorney fees. Mr. Austin, seconded by Ms. Sutton, moved to approve payment. The motion was adopted by unanimous vote.

The Chairman moved to agenda item thirteen, consideration of complaint information. Ms. Bayless requested authorization to initiate an investigation of Clayton L. Bennett for engaging or conducting the business of a real estate broker or a real estate salesperson within this state without first obtaining a real estate license in violation of section 1(b) of the Real Estate License Act. Mr. Walton, seconded by Mr. Jokl, moved to authorize the investigation as requested. The motion was granted by unanimous vote.

Ms. Bayless requested authorization to initiate investigations of Clayton Excell Bennett, Carol C. Bounds, Peggy Jo Diamond and Belinda Sharon Hampton-Prince for paying commission to or associating with an unlicensed person in violation of Sections 15(a)(6)(F) and (S) of the Real Estate License Act. Ms. Gil, seconded by Mr. Walton, moved to authorize the investigations as requested. The motion was adopted by unanimous vote.

Ms. Bayless requested authorization to initiate an investigation of Cynthia Proctor Smith for failing to complete her Mandatory Continuing Education (MCE) hours and pay the \$200 fee needed to renew a license within the time required by 22 TAC §535.92(f). Ms. Sutton, seconded by Mr. Austin, moved to authorize the instigation as requested. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item fourteen, motion for rehearing, alternative motion to modify a prior order, and alternative motion for probation of prior order in the matter of David Michael Rudd; Hearing No. 02-170-012209. Mr. Rudd appeared by his attorney, Joseph Loiacono II. The Enforcement Division appeared by Lynn Latombe, staff attorney. After presentations by Mr. Loiacono and Ms. Latombe, the motion for rehearing and the motion for modification of the order were denied. After discussion, the motion for probation was granted.

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

Chairman Brodie moved to agenda item sixteen, scheduling future meetings and adjournment. After discussion, it was decided that the next meetings would be scheduled for July 14, 2003 and September 8, 2003. The Chairman adjourned the meeting at 10:41 a.m.

APPROVED this the 11<sup>th</sup> day of August A.D. 2003.

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C. Michael Brodie  
Chairman

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