

MINUTES
Texas Real Estate Commission
October 18, 2004
Texas Real Estate Commission
Room 235, 1101 Camino La Costa
Austin, Texas

Chairman John Walton called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:02 a.m., Monday, October 18, 2004. In addition to Chairman Walton, members present were James Austin, Larry Jokl, Louise Hull, Mary Frances Burleson, Elizabeth Leal, Mick Cantu and William Flores. Paul Jordan arrived at 9:22 a.m.

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; and Tom Watson, Director of Information Services.

Commissioner Jokl led the attendees in the pledge of allegiance.

Chairman Walton called for agenda item two, minutes of August 9, 2004 Commission meeting. Mr. Flores, seconded by Mr. Jokl, moved to approve the minutes as mailed. The motion was adopted by unanimous vote.

The Chairman moved to agenda item three, staff reports; committee reports. Assistant Administrator Sabrina Hassumani reported that the numbers for education evaluation, tests, applications and licenses issued continue to rise. The total number of licensees was 132,577 at the end of September 2004.

Ms. Bayless presented the reports for the Enforcement Division. She reported that the number of cases opened in fiscal year 2004 was 4,233 and the number closed was 4,220. At this time there are 750 open cases.

Mr. Watson presented the reports for Information Services. He pointed out that the I1 report had been revamped. There was discussion concerning increasing the percentage of online renewals.

Mr. Waters presented the Staff Services reports. He stated that his division had been busy working on the annual report.

Ms. Bayless returned to introduce two new staff members, Brett Blair, staff attorney and John Barajas, investigator.

Chairman Walton announced that Wayne Thorburn, TREC Administrator, had been elected President of the international Association of Real Estate License Law Officials.

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

Mr. Thorburn stated that the commission would be conducting an awards ceremony on October 19 to honor various TREC employees for their years of service. The honorees were for five years-Laura Chandler, for ten years-Barbara Kolb, for fifteen years-Bill Titter, for twenty years-Debbie Orosco, Angelique Gladney and Laura George, and for 25 years-Susan Steger.

Mr. Walton moved to agenda item five, 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 9:12 a.m. The executive session ended and the open meeting resumed at 9:41a.m.

Chairman Walton moved to agenda item six, 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 claim to be paid from the Real Estate Recovery Trust Fund without contest:

RF 04-007, American Capital Funding Corp. v. Rosalyn Fagan, in the amount of \$50,000. Ms. Burleson, seconded by Mr. Austin, moved to approve payment. The motion was adopted by unanimous vote.

RF 04-011, James F. Arens v. Mark Alan Cooper, in the amount of \$40,000 in actual damages and \$10,000 in attorney fees. Ms. Hull, seconded by Mr. Austin, moved to approve payment. The motion was adopted by unanimous vote.

RF 05-001, Barbara Mazingo v. Richard L. Straub, in the amount of \$4,000. Ms. Leal, seconded by Ms. Hull, moved to approve payment. The motion was adopted by unanimous vote.

The Chairman moved to agenda item seven, discussion and possible action to adopt amendments to 22 TAC §§535.62 & .64 concerning experience, educational programs, time periods and types of license. Ms. DeHay presented the item for discussion and possible action. No comments had been received on this item. Ms. Leal, seconded by Mr. Flores, moved to adopt the amendments as submitted by staff. The motion was adopted by unanimous vote.

Chairman Walton moved to agenda item eight, discussion and possible action to approve MCE required legal and ethics courses prepared by the Real Estate Center at Texas A&M University. Diane Whisenant, Education Coordinator for the Real Estate Center at Texas A&M, was available for questions and comments. Ms. Hull and Ms. Leal expressed their appreciation for the excellent material that the Real Estate Center had developed. Chairman Walton thanked Ms. Whisenant and Ron Walker, TAR general counsel, for their work on the project. Mr. Gary Maler, Associate Director-Real Estate Center, thanked all the other advisory committee members for their work on the project. Ms. Whisenant distributed an example page from the teacher manual for the courses to the members of the Commission. She also stated that PowerPoint presentations had been developed to accompany the courses. Ms. Leal, seconded by Ms. Hull, moved to approve the MCE required legal and ethics courses as prepared by the Real Estate Center at Texas A&M University. The motion was adopted by unanimous vote.

Ms. Whisenant announced that three training sessions had been scheduled for instructors to obtain certification to teach the required MCE courses. The sessions are scheduled as follows: November 15-16 in Houston at Houston Community College; November 18-19 in Dallas at the Greater Dallas Association of Realtors and December 2-3 in San Antonio at the San Antonio Board of Realtors. Ms. Whisenant stated that the Dallas class was closed and they had a waiting list of people wanting to get in. There was discussion concerning comments and complaints received concerning the courses and locations of the training sessions.

The Chairman moved to agenda item nine, discussion and possible action to approve annual internal audit report. Mr. Waters presented the agenda item for discussion and possible action. There was discussion on report details concerning Residential Service Companies. Della Lindquist, staff attorney, was available to answer questions. There was discussion concerning the Disaster Recovery Plan. Mr. Flores, seconded by Ms. Leal, moved to approve the annual internal audit report. The motion was adopted by unanimous vote.

Chairman Walton moved to agenda item ten, annual review of fees and estimated revenues. Mr. Waters presented agenda item ten for discussion and possible action. Mr. Flores, seconded by Mr. Austin, moved to accept the annual review of fees and estimated revenues. The motion was adopted by unanimous vote.

The Chairman moved to agenda item eleven, consideration of complaint information. Ms. Bayless requested authorization to initiate investigations concerning the Anzer Investment Corporation, BTM, Inc., Milton Ray "Jim" Currey and John Clifford Herzer for paying a commission to someone not a license holder, establishing an association with a person expected or required to act as a license holder in violation of sections 1101.652(b)(11)(26) of the Texas Occupations Code. Mr. Austin, seconded by Ms. Burleson, moved to authorize the investigations as requested. The motion was granted by unanimous vote.

Ms. Bayless requested authorization to initiate an investigation concerning Leroy Henry Jones for failure to provide information requested by the Commission in connection with the renewal of a real estate salesperson license as required by 22 TAC §535.91(c), in violation of Section 1101.656 of the Texas Occupations Code. Mr. Austin, seconded by Ms. Burleson, moved to authorize the investigations as requested. The motion was granted by unanimous vote.

Ms. Bayless requested authorization to initiate investigations concerning Terry E. Meyers, Elaine Meyer, Amy Beth Burdick, Cheryl Rene Scheiders and Kristinia Anne Stephens for failing to complete their 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. Hull, seconded by Mr. Jokl, moved to authorize the investigations as requested. The motion was granted by unanimous vote.

Ms. Bayless called upon Sharon Harris, staff attorney, concerning the request to initiate an investigation of Blake Lewis Riggs due to the Commission being required to make payment from the real estate recovery trust account to satisfy all

or part of a judgment against the license or certificate holder pursuant to Section 1101.655 of the Texas Occupations Code. Ms. Harris presented background information concerning the payment of a recovery fund claim on behalf of Mr. Riggs, the subsequent release of the civil judgment and conditions of that release. There was discussion concerning prior law and current law. After discussion, Mr. Jokl, seconded by Ms. Leal, moved to open an investigation of this matter.

Ed McConnell, attorney for Mr. Riggs, presented background material concerning the original payment and the case it arose from. After discussion, Mr. Jokl, seconded by Ms. Leal, moved to authorize an investigation of Blake Lewis Riggs due to the Commission being required to make payment from the real estate recovery trust account to satisfy all or part of a judgment against the license or certificate holder pursuant to Section 1101.655 of the Texas Occupations Code. After further discussion, Mr. Walton called the question. Mr. Cantu, Mr. Austin, Ms. Hull, Ms. Leal, Ms. Burleson, Mr. Walton, Mr. Jokl and Mr. Flores voted for the motion. Mr. Jordan voted against the motion. The motion was adopted.

The Chairman moved to agenda item twelve, Request to Appeal Disapproval of a License in the Matter of Shanteri Twanette Thomas and item thirteen, Request for a Rehearing in the Matter of Christopher Anthony Marache. Lynn Latombe, staff attorney, appeared for the Enforcement Division. Neither Ms. Thomas, Mr. Marache nor anyone representing either party was present. Ms. Latombe presented the Enforcement Division's response to both agenda items. The request for rehearing for Mr. Marache was denied by unanimous vote. The request to appeal the disapproval of a license for Shanteri Twanette Thomas was denied by unanimous vote.

Chairman Walton moved to agenda item fourteen, entry of orders in contested cases. Two orders were presented.

The Chairman moved to agenda item fifteen, scheduling future meetings and adjournment. The next meetings were scheduled for December 6, 2004, February 21, 2005 and April 18, 2005 in Austin. The Chairman adjourned the meeting at 10:54 a.m.

APPROVED this the 6th day of December, A.D. 2004.

John Walton
Chairman

ATTEST: _____
Wayne Thorburn
Administrator