

MINUTES OF THE MEETING OF THE
TEXAS REAL ESTATE COMMISSION

June 11, 2009

Room 235, 1101 Camino La Costa
Austin, Texas

On Thursday, June 11, 2009, at 1:00 p.m. there was a duly posted regular meeting of the Texas Real Estate Commission (the "Commission"). Chairman Eckstrum called the meeting to order at 1:00 p.m. and asked Commissioner Wukasch to lead the attendees in the pledge of allegiance to the United States flags. Chairman John Eckstrum presided, and Patricia Holder recorded the minutes. The following commissioners, constituting a quorum, were in attendance:

John Eckstrum, Chairman

Adrian Arriaga

Chris Day

Jaime Hensley

Joanne Justice

Tom Mesa

Avis Wukasch

Upon motion of Ms. Wukasch, duly seconded by Ms. Justice, the Commission excused the absence of Troy C. Alley, Jr .

Staff present included Karen Alexander, Devon Bijansky, Loretta DeHay, Patricia Holder, Gwen Jackson, Della Lindquist, and Tom Watson.

The Chairman moved to agenda item two, discussion and possible action to withdraw and re-propose amendments to: (a) 22 TAC §535.64, Accreditation of Schools and Approval of Courses and Instructors, (b) 22 TAC §535.66, Payment of Annual Fee, Audits, Investigations and Enforcement Actions and (c) 22 TAC §535.101, Fees. Ms. Bijansky presented agenda items two (a) and (b) for discussion and possible action. She stated that §535.64 and §535.66 adopt a fee for a two year accreditation period that changes the accreditation fee for a two-year period to \$480, incorporating the previous \$400 fee for a 5-year accreditation and the \$200 annual fee paid at the beginning of years 2-5 of the accreditation period. The amendments would eliminate the annual fee for schools that are accredited for a 2-year period but retain the annual fee for the duration of any remaining 5-year accreditation periods. The amendment that was being withdrawn adopted by reference a form with an incorrect fee on it and eliminated the \$200 annual fee completely. Lastly, the amendments propose to adopt a revised application for instructor approval pursuant to changes to requirements to teach the mandatory legal update and ethics courses. Upon the motion of Ms. Wukasch, duly seconded by Mr. Arriaga, the Commission approved the withdrawal of the amendments to 22 TAC § 535.64 approved at the May 26, 2009 meeting and approved the proposal of the revised amendments and forms as submitted by staff. Upon the motion of Ms. Wukasch, duly seconded by Mr. Mesa, the Commission approved the withdrawal of the amendments to 22 TAC § 535.66 approved at the May 26, 2009 meeting approved the proposal of the revised amendment as submitted by staff.

Ms. Bijansky presented Mr. Eckstrum moved to agenda item two (c) for discussion and possible action. This agenda item increases the salesperson and broker annual renewal fees from \$30 to \$34; late renewal fee from \$45 to \$51 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 days or less; and late renewal fee from \$60 to \$68 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but less than one year. It also changes the accreditation fee for education programs from \$400 to \$480 and limits the \$200 renewal fee for education programs to those who are subject to a 5-year accreditation under the rules in place before they were amended to better implement the statutory requirements that schools demonstrate a 55% examination passage rate to renew their accreditation. The withdrawn rule amendments contained the wrong accreditation fee and removed the \$200 fee altogether. Upon the motion of Ms. Wukasch, duly seconded by Ms. Hensley, the Commission approved the withdrawal of the amendments to 22 TAC § 535.101 approved at the May 26, 2009 meeting approved the proposal of the revised amendments as submitted by staff.

The Chairman moved to agenda item three, discussion and possible action to propose amendments to 22 TAC § 535.71, Mandatory Continuing Education: Approval of Providers, Courses and Instructors. Ms. DeHay presented the agenda item for discussion and possible action. The amendments add the TREC web site address to paragraph (d) concerning availability of forms and adopts by reference MCE Form 16-1 which has been revised for use as an instructor application for MCE elective courses only. The amendments to §535.71 also change the requirements for approval of instructors of Mandatory Continuing Education required Legal update and Ethics courses. Currently instructors of such courses meet minimum requirements by certifying attendance at an instructor training course. The amendments would require persons to have a college degree or five years professional experience in the subject are of Principles of Real Estate, Law of Agency, and Law of Contracts and three years experience in teaching or training; or the equivalent of those requirements as determined by the commission. After discussion, Ms. Wukasch, seconded by Ms. Justice, moved to propose the amendments. Ms. Justice, seconded by Mr. Mesa, moved to amend paragraph (r) to read as follows.

“(r) Standards for approval of instructors of required legal courses. Prior to attending an instructor training course, a person must obtain commission approval to be an instructor using Form ED 4-2, Instructor Application – Core, Legal Update, and Ethics, adopted by the commission. To be approved as an instructor of a required legal update or ethics course, a person must possess the following qualifications:

(1) a college degree in the subject area of Real Estate, or five years professional experience in the subject areas of Principles of Real Estate, Law of Agency, and Law of Contracts, and

(2) three years experience in teaching or training; or

(3) the equivalent of paragraphs (1) and (2) of this subsection as determined by the commission after due consideration of the applicant's professional experience, research, authorship or other significant endeavors in the subject area. “

The Commission approved the amending of the rule as proposed by Ms. Justice.

After discussion, the Chairman called for a vote on the motion. The motion was adopted by unanimous vote.

Mr. Eckstrum introduced the new commissioners, Ms. Hensley and Ms. Justice. Ms. Hensley introduced her husband who was in attendance. Mr. Day introduced his daughter, Ellie, who was also in attendance.

Chairman Eckstrum moved to agenda item four, executive session to discuss selection criteria and selection process for the the TREC administrator position under Texas Government Code §551.074, to discuss matters

related to the appointment of the TREC administrator, and to receive legal advice from TREC's legal counsel on posted agenda items and employment law under §551.071. The Executive session began at 1:30 p.m. The meeting was back in open session at 3:50 p.m.

The Chairman moved to agenda item five, discussion and possible action on items considered in executive session. Ms. Wukasch, seconded by Mr. Mesa, moved to repost the job for executive director of the Texas Real Estate Commission for ten days, with the following changes.

Under Required Qualifications:

1. **Graduation from an accredited four-year college or university is required**, no change.
2. **Five years of executive management experience is required.** Add...*Executive Management refers to an individual who has demonstrated the ability to plan, organize, lead, and co-ordinate the activities of an organization; while holding others accountable and communicating the results.*

Under Preferred Qualifications:

1. **Experience with [in] local, state or Federal government.**
2. **Knowledge of [Experience in] the real estate industry.**
3. **[Relevant executive management experience in a similar sized organization.]**
4. **Knowledge of appraisal [appraiser] industry.**
5. **Working knowledge of appropriations process in Texas Legislature**, no change.
6. **Demonstrated ability to negotiate the legislative process**, no change.
7. **Ability to effectively represent agency at public, licensee, and governmental meetings**, no change.
8. **Knowledge of [Familiarity with] home inspector and timeshare industries.**

On the second page, second sentence from the end.

Cover letter should [must] delineate the manner in which the applicant's work experience ties into the required and preferred qualifications for this position.

Mr. Arriaga moved to amend the required qualification for five years of executive management experience to eight years of executive management experience. The motion died for lack of a second.

Mr. Eckstrum called for a vote on the motion. The motion was adopted with Mr. Arriaga and Mr. Day voting against the motion.

Chairman Eckstrum asked if a vote was necessary to direct staff to post the job for ten days beginning on June 16, 2009. After discussion it was determined that a vote was not necessary.

The Chairman spoke concerning the interview and hiring process. Mr. Arriaga requested to be appointed to the selection committee, stating his concerns regarding the individuals who were unable to attend the previous set of meetings. He also asked that individuals chosen to interview do so before the entire commission.

After discussion concerning future meetings and upon motion of Ms. Hensley, duly seconded by Mr. Arriaga, the Commission agreed that after the screening process that all the commissioners be allowed to participate in the interview process.

Ms. Wukasch called a point of order concerning the motion and whether such a motion could be made under the posted agenda items. Ms. DeHay responded that the agenda items concerning items considered in executive session would allow the motion.

Mr. Eckstrum asked if a quorum of the commission would be able to act if some members were unable to attend. There was discussion concerning the duties of the selection committee. It was clarified that this committee consisting of Chairman Eckstrum, and Commissioners Wukasch, Alley and Mesa would select those individuals from the applications received to be interviewed by a quorum of the commission.

The Chairman called for a vote on the motion. The motion was adopted by unanimous vote. The Chairman adjourned the meeting at 4:01 p.m.

Patricia Holder, Secretary for the Meeting

APPROVED this the 17th day of August, 2009.

John Eckstrum
Chairman

ATTEST: _____
Loretta R. DeHay
Interim Administrator