

**MINUTES OF THE MEETING OF THE
TEXAS REAL ESTATE INSPECTOR COMMITTEE
OF THE TEXAS
REAL ESTATE COMMISSION (TREC)**

Conference Room 235, TREC Headquarters Office
1101 Camino La Costa, Austin, Texas

Friday, November 13, 2009, at 1:00 P.M.

CALL TO ORDER

1. Call to order Texas Real Estate Inspector Advisory Committee meeting. Members in attendance: Brad Phillips, Jill Frankel, Fred Willcox, Larry Foster, Ray Armendariz, and Curtis Carr.

MINUTES

2. Minutes of May 5, 2009 and minutes of May 7, 2009 meeting were read. Brad Phillips moved to approve, Fred Willcox seconded, motion passed.

REPORTS

3. TREC Enforcement report, including update regarding number and types of opened and closed complaint cases, presented by staff member Robert Meisel, included summaries of preceding FY's enforcement actions. Exact numbers to be e-mailed after meeting. There were a total of 131 complaints. Most were disposed as code 76, not an infraction of the rules. Code 77 is the next largest group: requests for more information. Twenty advisory letters were issued. Some complaints closed for lack of evidence. E-mail with supplemental data to be added to these minutes.
4. Administrator Doug Oldmixon wanted to say he is excited to be here. He reiterated that overall mission is to protect the consumer, which is a daunting challenge. He said that everyone's work is appreciated and that everyone would find a way to get to the common goal.
5. Subcommittee reports, including questions from Committee members regarding reports, from the:
 - a. Standards of Practice subcommittee, including update regarding development of commentary on the standards and possible changes to the standards of practice. The SOP sub-committee has completed a Preamble and General Provisions to SOP. Proposal to introduce to rules under education sections 535-213. Sub-Committee also has unfinished work on structural provisions. It was recommended to put that on the TREC homepage. Loretta Dehay said that licensees can get an e-mail alerting them to the informal posting. Fred Willcox said there have been many attempts at a Commentary that has never happened. He recommended finishing Commentary in sections. The committee also wanted informal comments on the SOP. Loretta Dehay wanted clarification about whether completed parts Preamble and General Provisions were being moved to the Education Sub-Committee. Staff needs to format the Preamble and General Provisions for publication before there can be posting. Brad Phillips wanted clarification whether moving to education makes it a support document or part of the rules. Administrator Oldmixon discussed how to incorporate commentary into regulatory structure and suggested incorporating it into rules by mandating it to be taught under education sections. Fred Willcox noted that if the commentary were in education rules, it could be used by enforcement. Does the document need to be part of the rules? Larry Foster said that they have been told yes for many years. The purpose of Commentary whether educational or enforcement was discussed. Fred Willcox stated the Commentary is to tell the public what the SOP mean. Committee members noted that various statutes include a Commentary on the statutes to explain them. The proposed commentaries are the same thing. Brad Phillips stated that cities and municipalities adopt codes but not commentary. Fred recommended the committee's motion die without a second because of a need to figure out how to structure it. Curtis expressed concern that we not post what sub-committee wanted referred to full committee. Fred said that is not set for posting because it is structural.
 - b. Enforcement Subcommittee, including update regarding volume and types of complaints being filed and possible opportunities to enhance education requirements to address areas that are lacking, and discussion of proposal to expand duties of the Enforcement Subcommittee to allow participation by the

Subcommittee in the enforcement activities of the Commission. Brad Phillips reported that the subcommittee is looking at weaknesses in education. Structural, electrical and mechanical top the list. The subcommittee has begun working with staff on an enforcement matrix. The subcommittee would like to participate in enforcement. Staff has been asked for a rule to allow the subcommittee to have input on all enforcement matters. The subcommittee will continue to pursue these inquiries.

- c. Education Subcommittee, including update regarding approval of continuing education courses offered by proprietary schools and trade associations, and discussion of proposal to expand duties of the Education Subcommittee to allow participation by the Subcommittee in the approval of education courses by the Commission, and discussion of proposal to require alternate lecture availability for continuing education seminars. Recommendation relating to including a commentary on the standards of practice in 22 TAC § 535.212, Education And Experience Requirements For An Inspector License. Ray Armendariz wanted to propose 535.212(a) changes to be posted for rule making purposes. Subcommittee wants to give advice for core and continuing education classes. Raising field education to 50% of time from 10%. Documentation for FastTrack should be notarized to make it a sworn statement. 535.213 is broken into subsections.

PUBLIC COMMENTS

6. General comments from visitors: Mike Cothran, president-elect of TPREIA, addressed the committee regarding commentary formatting. He suggested commentary should be for clarity and recommended placing the commentary sections after each rule section. Mr. Cothran also submitted a plea to committee from TPREIA. See attached document.

PENDING BUSINESS

7. Discussion and possible action to recommend amendments to 22 TAC §535.223, Standard Inspection Report Form. No action taken.
8. Discussion and possible action to recommend amendments to 22 TAC §§535.227-.233, Standards of Practice. Motion made, seconded and carried to post on TREC web page for comments on parts of SOP.
9. Discussion and possible action to recommend amendments to 22 TAC §535.212, Education and Experience Requirements for an Inspector License, and discussion of proposed commentary to Standards of Practice Motion died for lack of second on incorporating SOP commentary. Informal request for input on SOP.
10. Discussion and possible action to recommend amendments to 22 TAC §535.213, Schools and Courses of Study in Real Estate Inspection. Fred offered and Brad seconded a motion to post a request for input on the SOP on the TREC website for 60 days. Motion carried.
11. Discussion and possible action regarding education requirements for sponsorship. Jill moved to table discussion until next meeting for guest speaker and trade association rule. Loretta stated that any approved instructor can teach a course. We do not require approved instructors for trade association CE. Trade association is like the college exception. Should a course instructor not show another one may teach. Fred called the question. The chairman tabled the motion.
12. Discussion and possible action to solicit comments or proposals for change to the SOP from inspector licensees. Motion to proceed with solicitation of comments was made, Brad seconded, motion carried.
13. Discussion and possible action to recommend amendments to 22 TAC § 535.208, Application for a License, including a provision to prohibit filing a new license application before the old application has been terminated. Devon Bijansky reported that under current rules, if an applicant fails the inspector test 3 times, he must wait 6 months before taking the test again. However, some applicants exploit a loophole which allows the applicant to file a new application after two failures and continue taking the test. Staff recommended that this loophole be closed by this rule change. Brad moved to approve the rule change and Fred seconds. Motion carries.

FUTURE MEETINGS AND ADJOURNMENT

14. Request for new business agenda items Allow participation of subcommittee in enforcement proceedings
15. Scheduling of future meetings The next meeting was scheduled for February 15.
16. Adjourn

In compliance with the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons desiring to attend this open meeting should be submitted by that person to the Commission.