

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

December 14, 2017

The Louisiana Real Estate Commission held its regular meeting on Thursday, December 14, 2017, at 9:00 a.m., at 9071 Interline Ave, Baton Rouge, Louisiana, according to regular call, of which all members of the Commission were duly notified, at which meeting the following members were present:

COMMISSION

Evelyn Wolford, Chair
Steven Hebert, Vice Chairman
Richman Reinauer, Secretary
Lacy Baaheth
Jeffrey Donnes
Jeff Free
Eloise Gauthier
Deanna Norman
Patrick Roberts, Jr.
Lynda Nugent Smith

STAFF

Bruce Unangst, Executive Director
Arlene C. Edwards, Legal Counsel
Summer Mire
Ryan Shaw
Mark Gremillion
Debbie DeFrates
Robert Maynor
Chad Mayo
Telly Hollis
Jenny Yu

GUESTS

Norman Morris – Louisiana REALTORS®
Frank Trapani – Louisiana REALTORS®
Kim Calloway – Louisiana REALTORS®
Lynda Butler – Burns & Company
Bill Bacque – Van Eaton & Romero
Roy Ponthier – ProEducate
Kristen Nugent – ProEducate

Commissioner Ritchie was unable to attend the meeting.

Commissioner Gauthier led the Invocation and Commissioner Hebert led the Pledge of Allegiance.

MINUTES

Commissioner Gauthier made motion, seconded by Commissioner Reinauer, to approve the minutes of the meeting of November 16, 2017. Motion passed without opposition.

(Attachment A)

COMMITTEE REPORTS:

1. Budget – Commissioner Reinauer reviewed the budget report with the Commissioners, stating that the budget is up due to an increase in licensees. He stated that the Commission is near an all-time high for licensees in this period. He stated that the budget is up this period over the last and that it is in good shape.

(Attachment B)

2. Education/Research/Publication – Commissioner Gauthier reviewed the Brokers Missing Mandatory report with the Commission. Mr. Unangst stated that there are only a couple of areas where the number of brokers missing the course out-number the seats available. He thanked the individuals, including commissioners, boards, Louisiana REALTORS and LREC staff, for outreach efforts to ensure that all brokers are made aware of the course and have seat availability.

(Attachment C)

3. Legal/Legislative/Timeshare – Commissioner Nugent Smith reviewed proposed language changes to Chapter 18 of the LREC Rules and Regulations. She stated that the proposed change would be removing the language in 1805.A. Commissioner Gauthier stated that she has received complaints from brokers regarding this rule and how it is being abused at the closing table.

Commissioner Gauthier made motion, seconded by Commissioner Reinauer, to add discussion of this item (removal of 1805.A) to the agenda for today. Motion passed without opposition.

Commissioner Nugent Smith made motion, seconded by Commissioner Gauthier, to approve the proposed rule language edits and remove 1805.A.

Commissioner Hebert stated that he does not see the issue with commissions being paid at the closing table if the broker has authorized and given written consent. Commissioner Gauthier read an email she received from a broker who had an issue with this. Commissioner Nugent Smith stated that she has received many calls with complaints about splitting checks at the closing table.

Commissioner Hebert stated that he feels that removing this language is a step back for brokers. He stated that trying to limit advancement is a mistake as technology is ever changing and most complaints seem to be of an administrative nature.

After discussion, motion carried with Commissioner Hebert voting in opposition.
(Attachment D)

Commissioner Nugent Smith stated that a taskforce with members appointed by Chair Wolford and other stakeholders will be meeting in January to begin discussing upcoming legal issues such as escrows being held by title companies, etc.

4. Standardized Forms – Commissioner Roberts stated that Standardized Forms Taskforce met and made changes to the Property Disclosure. He stated that the finalized version of the updated Property Disclosure was sent out to the Commissioners for review prior to the meeting. He asked for any input from Commissioners. Chair Wolford read an email with input from a local title attorney. Ms. Butler stated that the headings of the pages were changed to help clarify what each section of the document consists of. Commissioner Roberts stated that this would also help ensure that the first page would be included, which was not the case in the past.

Commissioners reviewed the edited Property Disclosure Document, the email from a local title attorney, and the updated Property Disclosure with language from the title attorney's email.

Ms. Butler stated that LR attorney Patty McMurray will be putting together an informational sheet after the first of the year to help clarify the new Property Disclosure.

Chair Wolford asked for discussion of the edited document. She stated that the use of "known defect" needs to be stressed. Commissioner Reinauer stated that there are some areas where answers are confusing because there is no option for "no" as an answer. Mr. Bacque stated that the use of "no knowledge" has nothing to do with grammatical correctness or appropriateness, but instead satisfies the outcome of a recent Louisiana Supreme Court case.

Commissioner Reinauer asked if the decision was that we are more concerned with protecting people from lawsuits versus ensuring clear and accurate information in the disclosure document. Mr. Bacque stated that the updated disclosure would be effective in preventing people from violating the Louisiana Supreme Court's decision. Commissioner Reinauer stated that he finds it problematic that the decision to prevent lawsuits could prevent sellers from providing a full accounting of the history of the house. Chair Wolford stated that the purpose of the disclosure is not to give a full accounting of the history of the house, but to list any known defects.

Commissioner Roberts made motion, seconded by Commissioner Gauthier, to approve the amended Property Disclosure document with the exemption signature line and removal of the page number on the exemption page.

Commissioner Nugent Smith asked when the disclosure would become effective. Commissioner Roberts stated that the taskforce suggested a date of March 1, 2018 in order to give agents time to familiarize themselves with the document. It will have an effective date of March 1, 2018 with a revision date of January 1, 2018.

Mr. Maynor asked if agents will be required to turn in the entire document if they claim exemption. Ms. Edwards suggested removing the page number from the exemption page and beginning the numbering on the first page of the disclosure pages.

After discussion, motion carried.

(Attachments E, F, G)

5. Strategic Planning – Commissioner Baaheth stated that taskforce meetings will be held in the first two weeks of January to work toward shaping the new strategic plan.
6. Errors & Omissions – Commissioner Norman asked Mr. Unangst to update the Commissioners on E&O. Mr. Unangst stated that Rice Insurance Services is in a conference call today with the underwriter CNA and will be ironing out all final details to correct the issue of gaps in coverage for those that renew delinquently. Mr. Unangst will keep the commissioners informed.
7. Technology – Commissioner Donnes asked Ms. Shaw to update the commissioners on the new website development. Ms. Shaw stated that the designs for the site have been approved and should be finalized by the end of the year. She stated that January will be reserved for content population and testing and that the commissioners should see a test version of the site by February. She stated that we are on track for launch in late February or early March of 2018.

DIRECTORS REPORT:

Mr. Unangst stated that commissioners may receive calls from licensees who feel that the staff is not responding quickly enough. He asked that commissioners remind these licensees that this is the busiest time of year for the LREC staff and that they will get back to licensees as quickly as possible. He also stated that the LREC has hired three student workers to help ease the load of renewal season. Mr. Unangst also cautioned the commissioners that they may receive calls from licensees whose status shows an error. He stated that many of these licensees are missing their E&O verification paperwork and that the LREC staff will be making this form fillable and sending out an email to those who have not yet submitted their paperwork to help clear these errors.

Mr. Unangst stated that SSA Consultants recently provided a two-day training course for supervisors as well as half-day training in customer service for all staff. He stated that this training should result in better operations throughout the office and help increase service to all stakeholders.

Mr. Unangst thanked Chair Wolford for her service this year. He stated that she has done a great job serving the Commission.

Mr. Unangst stated that a recent court decision has been brought to his attention recently. He stated that the judge in the case stated that a broker could not be held accountable for the actions of their agent. He stated that this was huge judicial overreach and that the attorney has filed a writ to have the case reviewed. Mr. Unangst stated that if the writ is not granted, this case will provide precedent for all future brokers to claim that they are not responsible for the actions of their agents. He stated that if the writ is not granted, there will likely need to be edits made to the LREC law to strengthen the language regarding broker responsibility.

Ms. Edwards stated that she is not optimistic about the writ being granted and that she will keep the Commission updated about the progress of this case.

PUBLIC COMMENT:

Dr. Ponthier stated that next month marks his 30th year as a real estate educator in Louisiana. He stated that his daughter, Kristen Nugent, will be joining his real estate division team and will be attending many commission meetings in the future.

Mr. Unangst asked Mr. Ponthier to give a brief overview of the operations of the LREC staff versus other states that he works in. He stated that Louisiana is much easier to work with than many other states.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Commissioner Reinauer made motion, seconded by Commissioner Gauthier, to approve Stipulation & Consent Orders: Continuing Education Audit Cases (2nd and 3rd Time CE Offenders). Motion passed without opposition.

(Attachment H)

Chair Wolford asked Mr. Unangst to review the 2018 Committee Appointments. He stated the Commission needs to elect officers for 2018 first. He stated that the past protocol has been to move officers up each year, but that the election of officers is at the Commissioners' discretion. Commissioner Nugent Smith reminded commissioners that the protocol may need to be looked at in the coming years because many of the commissioners were appointed at the same time and have same expiration dates which could cause problems with officers in the future.

Commissioner Nugent Smith made motion, seconded by Commissioner Gauthier, to elect Commissioner Hebert as 2018 Chairman, Commissioner Reinauer as 2018 Vice Chairman, and Commissioner Norman as 2018 Secretary. Motion passed without opposition.

Commissioner Reinauer made motion, seconded by Commissioner Free, to approve the 2018 meeting schedule, with May moved to the fourth Thursday of the month, September moved to the second Thursday of the month, and December moved to the second Thursday of the month. Motion passed without opposition. Ms. Mire will send out an updated schedule to all commissioners.

There being no further business, Commissioner Reinauer made motion, seconded by Commissioner Norman, to adjourn. Motion passed without opposition.

EVELYN WOLFORD, CHAIRMAN

RICHMAN REINAUER, SECRETARY