

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

July 18, 2013

The Louisiana Real Estate Commission held its regular meeting on Thursday, July 18, 2013, at 10:00 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

Patrick T. Caffery, Jr., Chairman
Paul Burns, Vice Chairman
Archie Carraway
Tim Flavin
Rodney Noles
Lynda Nugent Smith
Cynthia Stafford
Frank Trapani
Evelyn Wolford

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Summer Mire
Mark Gremillion
Robert Maynor
Chad Mayo
Marsha Stafford
Sara Wheeler
Jenny Yu

GUESTS

Burk Baker – Burk Baker School of Real Estate & Appraisal
Jean Carraway
Amy Fennel – Louisiana REALTORS
Brent Lancaster – Bob Brooks School of Real Estate

Commissioners Gosslee and Nugent Smith were unable to attend the meeting.

Commissioner Flavin led the Invocation; Commissioner Burns led the Pledge of Allegiance.

MINUTES

Commissioner Trapani made motion, seconded by Commissioner Flavin, to approve the minutes of the meeting of June 20, 2013. Motion passed without opposition.

PERSONAL APPEARANCES:

1. Danielle Bertrand – Ms. Bertrand appeared before the Commission in connection with her request to obtain a real estate license.

On September 11, 2002, Ms. Bertrand pled guilty to theft of goods. For this offense, the court sentenced Ms. Bertrand to two (2) years hard labor. The sentence was suspended and Ms. Bertrand was placed on probation for a period of two (2) years. On September 11, 2004, Ms. Bertrand received an automatic first offender pardon.

Ms. Bertrand explained that she had a friend that worked at Wal-Mart on Veterans Blvd in New Orleans, LA. She was shopping with another friend and when it came time to check out and pay for the goods, the friend that worked there did not ring up all of her items. The case was basically a shoplifting case and became a felony because the goods were over \$100.00 in value. Although all the items were not hers, she was included in the charge because she was involved and aware of the situation. Ms. Bertrand stated that she is currently working as an office manager in the house leasing industry.

Commissioners asked Ms. Bertrand if she has had any other charges. She stated that she did have an open charge at the present time for Medicare fraud. She was working as a facilitator at PCA Homecare. The owner of the company was involved in Medicare fraud scandal and all of his employees are being charged as well. The owner should be taking the conviction for all of the employees. She has not been convicted as of yet; she has a court date of October 15th for a decision on clearing the charge.

After further questions from the Commission, Commissioner Flavin made motion, seconded by Commissioner Trapani, to deny Ms. Bertrand's request to sit for the real estate exam until after the open case hearing has been decided. After discussion, Commissioner Flavin amended his motion, seconded by Commissioner Stafford, to allow Ms. Bertrand to sit for the real estate exam once all the open charges are clear. After a roll call vote, motion carried with Commissioner Trapani voting in opposition.

2. Darien Lester – Mr. Lester re-appeared before the Commission in connection with his request to obtain a real estate license.

On August 7, 2012, Mr. Lester pled nolo contendere to possession of a Scheduled III Controlled Substance. The court sentenced Mr. Lester under the provisions of Article 893 to pay court costs, or in default thereof, to serve one (1) year in the parish jail. Mr. Lester was placed on supervised probation for a period of one (1) year. Execution of the sentence was deferred until April 13, 2013, in conjunction with Article 893. Mr. Lester stated that he was placed on unsupervised probation with no probation officer. Payment of court costs was made by Mr. Lester on February 22, 2013 and March 6, 2013. On April 18, 2013, Mr. Lester's unsupervised probation was terminated satisfactorily.

Mr. Lester stated that this was his third appearance before the Commission. He feels his case has not been given proper consideration based on his past employment as an attorney. He feels he meets all requirements of obtaining a license except for the background check. He feels he cannot prevail against the Commission unless he states his case. The Commission has not taken into consideration the type of people he represented. He says he was a zealous advocate for his clients. He feels that he is paying twice, double jeopardy, for his past cases. He has a problem with the Commission punishing him for something that they have no authority to punish him for. He stated that he has an order from a previous judge that extended his time to pay his court costs. He feels that this speaks volumes about his integrity.

Chairman Caffery asked Mr. Lester to restate into the record how he obtained his felony conviction. Mr. Lester stated that he was pulled over for a missing headlight in his vehicle. The officer decided to search his car and found 6 prescription pain pills that he did not have a prescription for. He came into possession of the pills when he was doing a succession for a client and was complaining of a toothache. His client gave him the pills that she had and he stated that should have never taken the pills. He put them in his glove box and forgot they were there. He stated that his probation was terminated on April 18, 2013.

Commissioner Noles inquired about the status of his law license. His law license was suspended, not revoked, and he can re-obtain his license within a year and a half. Commissioner Noles stated that he views this as still being on probation and would vote against him obtaining a real estate license at this time due to the background on the suspension of his license.

Commissioner Flavin made motion, seconded by Commissioner Trapani, to enter in to executive session. Motion passed without opposition.

EXECUTIVE SESSION

Commissioner Nugent Smith made motion, seconded by Commissioner Trapani, to exit executive session and return to the regular business meeting. Motion passed without opposition.

Commissioner Flavin asked if Mr. Lester had any other documents to present to the Commission. Mr. Lester stated that he had a copy of the letter that showed the extension of his payment of court costs

from a judge but it was not provided to staff. He did not feel that it was germane to the case and did not provide it.

Commissioner Flavin made motion, seconded by Commissioner Trapani, to deny Mr. Lester's request to sit for the exam and obtain a real estate license. Commissioner Flavin stated that he did not understand why it took six years to get through the legal process if he only had 3 pills in his possession. This troubles him and he has not received a straight answer on this question in the last appearances by Mr. Lester. Commissioner Flavin also explained that Section 1437 of the Louisiana License Law states that licenses shall be granted only to persons or entities who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate activities... Commissioner Flavin stated that in the document that he has reviewed from the Supreme Court, the ODC cites that the respondent's conduct violated provision of rules of professional conduct – safekeeping of property of clients or third person, engaging in conduct involving dishonesty, fraud, deceit, and misrepresentation. He stated that the Louisiana Real Estate Commission rules state that you can lose your license upon receipt of a felony and that is why you must come before the Commission. After a roll call vote, motion carried without opposition. All Commissioners voted in favor of the motion. Commissioner Carraway stated that he denied based on his misuse of client funds during his time of licensure as an attorney and his subsequent disbarment. This would be a reason for a real estate licensee to lose their license also. Commissioner Nugent Smith stated that Commission's duty is to protect the public and based on the ruling from the Supreme Court, Mr. Lester has violated that public trust numerous times with misuse of client funds, NSF checks, etc. Commissioner Trapani stated that he voted for the motion for all the reasons in the Supreme Court document as well as the fact that he has been dishonest in his public trust in the past. Commissioner Flavin voted in favor due to the reasons previously stated. Commissioner Burns voted in favor of the motion due to the history of his past actions and not feeling that he holds the interest of the public. Commissioner Noles voted in favor due to the reasons stated by previous Commissioners.

Chairman Caffery commented that Mr. Lester stated earlier that the Commission was somehow punishing him for his earlier convictions. Chairman Caffery clarified that the Commission is not punishing Mr. Lester but are doing what they are empowered and appointed to do as members of this body – protect the public interest in real estate.

3. Jeremy Frosch – did not appear before the Commission.

COMMITTEE REPORTS:

1. Budget – Ms. Yu gave the budget report and reported that the Commission will finish the fiscal year in the black. The legislative auditor will be returning in early August to finish their report and may have some adjustments. The final audit report will be ready in September.

Commissioner Carraway thanked Ms. Yu for her email regarding the mileage exemption on travel that was granted to Commissioners. Commissioner Flavin asked if there was an administrative decision in the change of .41 cents per mile. Ms. Yu will review and get back with Commissioner Flavin.

(Attachment A)

2. Education/Research/Publication – Commissioner Trapani reported the post licensing course review is being completed. Chairman Caffery noted that the final course should be available in September for the Commission to review.

Commissioner Trapani reminded the Commission that it is time to think of ideas for the upcoming mandatory course.

3. Legal/Legislative/Timeshare – No report.
4. Standardized Forms – Commissioner Carraway stated that the Committee met prior to the regular business meeting. HB 494 was discussed regarding salt stock and dissolutions. Proposed language was discussed that should be added to the property disclosure form. Commissioner Trapani made motion, seconded by Commissioner Flavin to approve the property disclosure form as presented in committee and to be effective as of September 1, 2013. Motion passed without opposition. (Attachment B)

Commissioner Carraway stated that discussion took place on a Flood Insurance Disclosure provided by NAR. The Committee decided to leave the current disclosure on flooding as is with no changes. Discussion also took place on environmental disclosures. The Committee decided to table this discussion for another time. Commissioner Flavin made motion, seconded by Commissioner Nugent Smith, to ratify both of these items. Motion passed without opposition.

5. Strategic Planning – Commissioner Nugent Smith stated that she has been in contact with Commissioners Gosslee and Trapani. A bid was received from LSU for a strategic planning consultant. The bid was high and will not be pursued at this time. Committee members are working on a date for the next meeting to move forward with the strategic plan.
6. Errors & Omissions – No report. Mr. Unangst noted that the quarterly E & O report was disseminated to Commissioners.

DIRECTORS REPORT:

Mr. Unangst noted that HB 494 was effective August 1, 2013 but the disclosure approved by Committee will go in effect on September 1, 2013. A notice will be sent to all licensees discussing the changes. No licensee will be charged with failure to use the form before September 1, 2013.

Mr. Unangst briefed the Commission on the upcoming Continuing Education Audit. 1,093 people have been placed in the audit. 111 are second time offenders. 7 are third time offenders. Many of these offenders will be cleared if they can provide their education certificates that prove they took the course.

Mr. Unangst explained that the Investigative Division has begun course audits of all online vendors that offer the pre-licensing course. A notice of deficiency will be sent via letter to all vendors that have noted errors.

Mr. Unangst explained that he had initiated a traffic study to be performed on the LREC telephone system. He noted that he has received a few complaints about customers not being able to get through to a live person when calling the office. LREC will be upgrading the bandwidth and software capability by eight times of what is currently available. A queue telephone system will be implemented so that a caller may speak with a live person. All voicemails received by a staff member will be converted to email to establish accountability. A part-time person may be hired during the busy renewal season to handle the additional phone calls and walk-ins.

Mr. Unangst stated that a new, entry-level Public Information Officer will be hired to assist with communication efforts. Standard operating procedures will be developed for the entire office this year with this new hire assisting. A consultant will be brought in to work with this hire in developing the standard operating procedures.

PUBLIC COMMENT:

None

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Commissioner Noles made motion, seconded by Commissioner Nugent Smith, to approve all Stipulation and Consent Orders as presented. Motion carried without opposition. (Attachment C)

Commissioner Nugent Smith made motion, seconded by Commissioner Trapani, to approve the Louisiana Compliance Questionnaire as presented. Motion carried without opposition.

(Attachment D)

Commissioner Noles noted that the annual ARELLO meeting and Louisiana REALTORS meetings are scheduled the same week as the September meeting. After discussion, Commissioner Flavin made

motion, seconded by Commissioner Trapani, to move the September meeting date to September 26, 2013. Motion carried without opposition.

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

PATRICK T. CAFFERY, JR., CHAIRMAN

JAMES D. GOSSLEE, SECRETARY