

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

July 20, 2017

The Louisiana Real Estate Commission held its regular meeting on Thursday, July 20, 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, Chairman
Richman Reinauer, Secretary
Lacy Baaheth
Jeff Free
Eloise Gauthier
Deanna Norman
Matt Ritchie
Patrick Roberts, Jr.
Lynda Nugent Smith

STAFF

Bruce Unangst, Executive Director
Arlene C. Edwards, Legal Counsel
Summer Mire
Ryan Shaw
Mark Gremillion
Robert Maynor
Henk vanDuyvendijk
Chad Mayo
Damien Smart
Debbie DeFrates
Dusty Evans
Jenny Yu
Malissa Fowler

GUESTS

Norman Morris – Louisiana REALTORS
Amy Fennel – Louisiana REALTORS
Pam Testroet – Louisiana REALTORS
Tim Tullos – Keller Williams
Roy Ponthier – ProEducate
Bill Bacque – Van Eaton & Romero
Patty McMurray – Louisiana REALTORS
Lisa Baker – Burk Baker School of Real Estate and Appraisal

Chris Donaldson – Donaldson Educational Services
Brent Lancaster – Bob Brooks School of Real Estate

Commissioners Hebert and Donnes were unable to attend the meeting.

Commissioner Free led the Invocation and Commissioner Norman the Pledge of Allegiance.

SWEARING IN OF MATT RITCHIE

Chairman Wolford welcomed Matt Ritchie and swore him in as a member of the Commission.

MINUTES

Commissioner Nugent Smith made motion, seconded by Commissioner Reinauer, to approve the minutes of the meeting of June 15, 2017. Motion passed without opposition.

(Attachment A)

COMMITTEE REPORTS:

1. Budget – Commissioner Reinauer reviewed the budget with the Commissioners. He brought the Commissioners attention to the end-of-year budget, pointing out the surplus. He stated that the budget for travel is up for next year due to the ARELLO conference. He stated that the personnel numbers are up due to approved merit increases for staff.

Commissioner Gauthier made motion, seconded by Commissioner Free, to accept the revised 2016-2017 budget, 2017-2018 proposed budget, and 2018-2019 proposed budget. Motion passed without opposition.

(Attachment B)

2. Education/Research/Publication – Commissioner Gauthier stated that the Commission received two RFPs for the 2018 mandatory course. She stated that Bob Brooks' School came in with a bid of \$10,000 and Burk Baker's bid came in at \$13,000. She stated that both are very good bids and that either vendor would do a good job.

Commissioner Gauthier made motion, seconded by Commissioner Ritchie, to accept Bob Brooks' school's bid.

Mr. Unangst told Commissioners that staff reviewed both bids and deemed them both acceptable based on content.

After discussion, motion passed without opposition.

(Attachments C & D)

3. Legal/Legislative/Timeshare – Commissioner Nugent Smith stated that she recently sent out a survey to members of the industry on the issue of title companies holding escrow deposits. She received a lot of suggestions and feels that future legislation may be need to clean this issue up.

She asked that if anyone has any other recommendations or suggestions to please get them to her as soon as possible. She stated that once she has gathered more responses, she would like to have a meeting to discuss moving forward on this issue. Mr. Unangst thanked Mr. Tullos for his input on this issue.

4. Standardized Forms – No report but Commissioner Roberts stated that the escrow deposit issue may be able to be handled in forms.
5. Strategic Planning – Commissioner Baaheth stated that the Commission is moving toward the idea of forming task forces to address the five strategic foci put together by the staff. She stated that these task forces could be made up of Commissioners, vendors, members of boards, etc.

She stated that she would like to send out an email with the objectives of each foci and receive input from the other Commissioners on who they believe should be on the task forces. Mr. Unangst stated that the advantage of the task force approach is that they can meet in any way they would like, teleconference, emails, etc. He stated that they will only make recommendations to the Commission, which will then vote on what goes into the final strategic plan.

(See Attachment E)

6. Errors & Omissions – Commissioner Norman stated that there have already been 88 claims this year. She stated that Breach of Duty and Misrepresentation are two prevalent issues. She stated that the losses are \$252,000 but that the legal fees are much more.
7. Technology – Mr. Unangst introduced the newly-hired Information Technology Director, Damien Smart. He stated that Mr. Smart is a graduate of Southern University and holds a Masters Degree in Computer Science. Mr. Unangst stated that in his short tenure Mr. Smart has already come in and made an impact by fixing many issues around the office. He stated that Mr. Smart is working on upgrading the LREC website.

DIRECTORS REPORT:

No Report

PUBLIC COMMENT:

Mr. Morris stated that he had a couple of issues to discuss that are coming up that will have an impact on the public. He invited Ms. McMurray to come up to discuss these issues. Ms. McMurray stated that the first issue for discussion is the “Obtain and Maintain” requirement that has been in place for a while, but has never been addressed in any Commission forms. She stated that she believes that this issue will become more prevalent soon. She stated that the rule requires that anyone who has received federal funding, i.e. FEMA money, SBA loans, etc. must get and keep flood insurance. She stated that the obligation to obtain and maintain flood insurance must be passed on to future owners of the property. She stated that this must be done in writing prior to the sale of the property. She stated that not passing on this requirement could result in action against the original owner by FEMA. She also stated that any subsequent owners of the property who fail to maintain flood insurance may be ineligible for future disaster relief funds.

She stated that Louisiana REALTORS has discussed putting a notice up on their website as well as releasing an addendum to the Property Disclosure to make sure that everyone is properly informed on this issue. She stated that she believes that it should be added as an item on the Property Disclosure during the next Standardized Forms review.

Commissioner Ritchie asked if this applies to all property types. Ms. McMurray stated that it is applicable to all property types. Commissioner Nugent Smith stated that her concern is renters because they property changes hands so often and renters do not tend to be concerned with covering the property. Ms. McMurray stated that she is less concerned about renters because they will only receive funds for movable property and will have fewer issues in the future.

Ms. McMurray stated that Louisiana REALTORS' recommendation would be to add language to the website and issue a property disclosure addendum.

Commissioner Nugent Smith stated that she would like to see this issue forwarded to the Standardized Forms committee sooner rather than later.

Mr. Morris stated that Louisiana REALTORS will share the addendum to the Property Condition Disclosure with the Commission for use until they have time to address the issue.

Ms. McMurray stated that the second issue is an ongoing case brought to Louisiana REALTORS' attention by Bill Bacque. She stated that a seller checked the "no" box on the Property Disclosure form, but that the buyer later discovered defects. The buyer had already purchased the property and signed a waiver of redhibition before discovering the defects. The buyer sued the seller, stating that by checking the "no" box instead of the "no knowledge" box, the buyer believed that the seller knew for sure that there was no defect. She stated that the Supreme Court decision sets a high bar for use of the "no" box instead of the "no knowledge" box. She stated that the case is still being litigated, but that no matter the outcome, she believes that this issue will persist.

She stated that the Commission needs to decide on how to address this issue in the language of the Property Disclosure. Commissioner Roberts stated that maybe adding the "to the best of your knowledge" before each question could solve the issue.

Mr. Bacque discussed Louisiana laws related to defects, good faith sellers, bad faith sellers, etc.

Commissioner Ritchie stated that he does not think that combining the "no" and "not known" boxes across the form is the correct answer. Ms. McMurray stated that she agreed that the combining of the boxes is not right in every instance, but could be useful in some areas.

Commissioner Nugent Smith stated that she believes that the issue should be forwarded to the Standardized Forms Committee for discussion.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Commissioner Nugent Smith made motion, seconded by Commissioner Gauthier, to approve Stipulation & Consent Order: Case No. 2017-119: Rami H. Khodr. Motion passed without opposition.

(Attachment F)

Commissioner Gauthier made motion, seconded by Commissioner Nugent Smith, to deny Stipulation & Consent Order: Case No. 2015-530: Candice Leigh-Medina Skinner and require Ms. Skinner to come before the Commission for a formal hearing. Mr. Maynor explained that the motion in April to bring Ms. Skinner before the Commission was made by former Commissioner Ducote. Ms. Edwards stated that staff wanted to be sure that hearing Ms. Skinner’s case at a formal hearing was what the Commission wanted. After discussion, motion passed without opposition.

(Attachment G)

Formal Hearing – Case No. 2015-1274: Deborah Kaglear

(See official transcript)

EXECUTIVE SESSION

None

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

EVELYN WOLFORD, CHAIRMAN

RICHMAN REINAUER, SECRETARY