

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

October 17, 2013

The Louisiana Real Estate Commission held its regular meeting on Thursday, October 17, 2013, 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

Patrick T. Caffery, Jr., Chairman
Paul Burns, Vice Chairman
James Gosslee, Secretary
Archie Carraway
Tim Flavin
Steven Hebert
Rodney Noles – left at 11:25 a.m.
Lynda Nugent Smith – left at 10:40 a.m.
Cynthia Stafford
Frank Trapani
Evelyn Wolford

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Summer Mire
Tad Bolton
Debbie Defrates
Mark Gremillion
Chad Mayo
Ryan Shaw
Marsha Stafford
Jenny Yu

GUESTS

Roz Allemond –
Chris Donaldson – Donaldson Education Services
Brent Lancaster – Bob Brooks School of Real Estate
Norman Morris – Louisiana REALTORS
Mark Norsworthy -
Dr. Roy Ponthier - ProEducate

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

MINUTES

Commissioner Burns made motion, seconded by Commissioner Stafford, to approve the minutes of the meeting of September 26, 2013. Motion passed without opposition.

COMMITTEE REPORTS:

1. Budget – Commissioner Stafford reviewed the budget report with Ms. Yu. See Attached budget report.

(Attachment A)

2. Education/Research/Publication – No report.
3. Legal/Legislative/Timeshare – No report.
4. Standardized Forms – No report.
5. Strategic Planning – Commissioner Nugent Smith stated that she, along with Commissioners Gosslee, Wolford, and Mr. Unangst, will be meeting after the meeting with a consultant to discuss their options.
6. Errors & Omissions – No report.

DIRECTORS REPORT:

No report.

PUBLIC COMMENT:

None

UNFINISHED BUSINESS:

Commissioner Trapani made motion, seconded by Commissioner Stafford, to amend Rule 5527.A as presented by staff. **See Attachment B** Motion was opened for discussion. Commissioner Wolford inquired as to whether individual schools would be allowed to improve on the curriculum, make it more interesting, etc. Mr. Unangst stated that he reached out to providers during the course development. The commission recognizes that teaching styles, methods of teaching, etc. range from instructor to instructor. The instructor will have the flexibility to change their teaching styles but they cannot change the curriculum of the course. Commissioner Flavin noted that any changes to the curriculum will be made as laws/rules change. Mr. Unangst stated that changes can be made by the Commission upon recommendation, just as changes to the Buy/Sell Agreement or other changes are made. It would be brought back to the full Commission for final approval. Chairman Caffery stated that the Commission is always open to suggestions, new content, and ideas.

Commissioner Stafford stated that she felt that some parts of the exam that she reviewed were overkill. Commissioner Trapani stated that if licensees take the course then they would understand the relevance of the whole thing. Mr. Unangst reminded the Commission that the test requirements were deferred at the last meeting due to these exam concerns. Commissioner Hebert feels strongly about testing and feels that data should be collected throughout the year for pass/fail ratios. Chairman Caffery stated that this is the future plan for testing. Mr. Unangst stated that Dr. Pace agrees that testing needs to be done as an assessment of the course/vendor. Pass rates of each module need to be reviewed to determine what needs improving.

Commissioner Stafford stated that the information and format are wonderful but that she has nothing to compare it to. Commissioner Wolford stated that she reviewed the course as much as she could and is in favor of the core curriculum but feels the 45-hours is not easy to get through. She stated that there are many typos in the course. She feels the course is a better manual for real estate than as an assessment for new licensees. She feels the exam questions are befuddling. Mr. Unangst explained that the 45-hour course is mandated in the law. He has reviewed all the online vendor courses and not all have half of the required content. This required information is the law. Not everyone has a 45-hour course. Both online and live classrooms have been audited. He stated that he is proud of the work the Education Committee has done. He gave the history of the post license course changes starting with the work of Chairman Caffery and the legislature up to today. Education was the core mission of the Commission and they have sought a much better process and system for education. He noted that staff recommends the rule be changed. Commissioner Flavin asked whether Rule 5333 is part of this rule change. Ms. Edwards stated that rule would be voted on separately. Mr. Unangst stated that Rule 5333 will be presented for later discussion but is separate from Rule 5527.A.

Commissioner Noles stated that is confused about mandating a course with no testing requirement. Mr. Unangst stated that there would be no change from the current procedure in testing. A PSI administered exam would be looked at on a later date. Commissioner Noles asked what the 150 question requirement pertained to. Mr. Unangst explained that online vendors are currently required to give a 150 question online exam. He stated that may be overkill on questions. Commissioner Noles

stated that he has been previously involved in rolling out CCIM courses. There needs to be a testing period for courses. He stated that he contacted an out of state educator and noted that it is becoming a trend for Commissions to create their own courses instead of vendors. He suggested that in the next year that the Commission gives vendors the choice to use the course and then make it mandatory in 2015. The vendor can use the course now if they so choose but they know they must use the course by 2015. Mr. Unangst stated that all vendors are not currently offering the correct curriculum. Chairman Caffery stated that not everyone would be on a level playing field. Online vendors and those that chose to teach the course would be teaching different material and it would not be on the same level of education. Mr. Unangst stated that he went to other states to discuss what they do as far as testing and courses. He appreciates the comments from vendors, Commissioner Wolford, etc. on flaws and things that need correcting. He reminded the Commission to not allow perfect to be the enemy of good. There is plenty of time to correct typos and make changes if need be.

Chairman Caffery opened the floor for public comment on the motion. Mr. Morris voiced his concerns over Rule 5527.B which requires testing requirement on course content. Commissioner Trapani stated that vendors will certify that the course has been taken and completed. Mr. Unangst noted that what happens now for online vendors is that they take the exam, miss an answer, and are steered toward the right answer. Similar situations are happening in live courses.

Dr. Ponthier stated that if you are going to gather data, what you gather online or in class is useless as the instructor is going to give an easy exam so that the student will pass. He suggested the Commission may want to consider posting the PSI exam on the website and have the student take the exit exam on there for data collection. An independent valuation is needed. It is not a good idea to have vendors report their own test scores. Mr. Unangst will consult Dr. Pace on this idea.

Commissioner Flavin stated that he hopes the Commission in the next year moves to some sort of testing. It is hypocritical not to test. The Commission is here to protect the public and the public is being damaged by uneducated agents. He stated that Louisiana talks about education but no one really values it. What are we afraid of?

Commissioner Hebert stated his feeling is it will definitely be an independent test. Commissioner Nugent Smith said there needs to be teaching towards testing. Teach towards the test- one pivots off the other. Commissioner Hebert questioned if the Commission passes the rule today, will testing remain the same? If he is a new licensee in 2014 and takes the new course, which exam will he take? Mr. Unangst stated that testing requirements are not changing right now. The licensee will take the vendors exam and it will remain as is. Commissioner Hebert asked if the vendors will use the test questions given with the course. Mr. Unangst stated they can use those questions or develop their own test questions. Dr. Ponthier noted that all questions will most likely be given for review and will end up public knowledge. Mr. Unangst posed a legal question to Ms. Edwards. Could those quiz questions be considered part of the course? This is a valid question to look at over the next year. Ms. Edwards stated that it is fair that everyone takes the same test.

Mr. Lancaster addressed the Commission to clear up a few points regarding Mr. Unangst's statements. He stated that all content is sent to LREC for approval then to ARELLO for approval for hour requirements. He takes issue with Mr. Unangst saying his course is somehow illegal in that all topics are not covered. He suggested that there are progressive states. Texas does not write their own courses. He stated that online providers go through more stringent requirements than classroom providers. He asked if classroom providers were required to give the same content to their students. Mr. Unangst replied that they are required to use the same course and teach the same content. Mr. Unangst clarified that he did not want to be misunderstood that there are illegal schools. They are simply just doing the game. ARELLO is now making changes to make the procedure more stringent. Commissioner Hebert asked how this discussion is germane to Rule 5527.A.

Mr. Lancaster stated that he is discussing the mandated material. He stated that he does not see how this new mandated course will meet ARELLO compliance. He believes there are 10 hours of deficiency or up to 14-17 hours of deficiency for ARELLO. In his opinion, it is not ARELLO compliant. Dr. Ponthier assured the Commission that the course has the required ARELLO word count. Some material is so technical that the word count per minute is slowed down. Currently there are over 700 questions allocated for the course. One third of the course is devoted just for assessments. PSI testing was still on the table for discussion at the time of the development. The questions are more difficult than multiple choice. Dr. Ponthier stated that he spoken with ARELLO multiple times about this course. He figures this course will average around 150 words per minute. Commissioner Caffery asked Dr. Ponthier if the course was ARELLO compliant. Dr. Ponthier stated that there is absolutely enough material to make it ARELLO compliant. It will depend on the vendor for delivery method. Mr. Lancaster stated for the

record that it is not ARELLO compliant by his calculations. He is very uncomfortable with the restrictiveness of the course.

Commissioner Noles asked how much the course cost to develop. Mr. Unangst stated that the course development cost was estimated around \$70,000.00. Mr. Unangst also spoke with ARELLO and they have promised that any vendor that submits the mandatory course will be given preference in line for quick approval.

As there was not more discussion or public comment, a roll call vote was made on the motion. Motion carried without opposition.

Commissioner Trapani made motion, seconded by Commissioner Burns, to add discussion of Rule 5333 to the agenda. Motion was carried by unanimous vote. After suggestions from staff, it was suggested that Rule 5333 be deferred until a later meeting so that language could be cleaned up. Commissioner Noles suggested that staff look at Rule 5505 also for clean up and revision.

Commissioner Trapani made motion, seconded by Commissioner Flavin, to approve the designation of the Commission 45-hour post license course and make it effective the 1st of the month following final promulgation and approval of change to Rule 5527.A. After a roll call vote, motion carried without opposition.

NEW BUSINESS:

Commissioner Gosslee made motion, seconded by Commissioner Burns, to add discussion of the Homes for Heroes cash back program to the agenda. Motion carried by unanimous vote. Commissioner Gosslee stated that Homes for Heroes is a program designed to give cash back to servicemen, nurses, teachers, etc. It is similar to the USAA program that the Commission does not allow. There is a 25% kickback to the "hero" purchaser. Commissioner Gosslee stated that he had a former agent that wanted to participate in the program. He stated it is a violation of LSA – R.S. 37:1446 which prohibits payment of a commission to a non-licensee. He feels the Commission needs to take a position on this matter. What is to keep other companies from doing the same? Commissioner Trapani asked if a formal investigation has been opened on this matter. Mr. Unangst stated that an investigation was opened previously but now additional information has come to light but has not yet been provided to the investigative staff. He feels it is absolutely a violation of the license law. Commissioner Nugent Smith asked if Louisiana is the only state that has laws on kick backs, etc. Ms. Edwards assured her that Louisiana is not the only state with these types of laws. A commission is basically being shared with a non-licensee. It cannot be done at a closing table. Once a check is in the operating budget of a broker, there is nothing the Commission can do at this point. Commissioner Flavin asked if a letter from Ms. Edwards could be sent to Homes for Heroes in Minnesota. Commissioner Gosslee feels that the Commission should do more than just send a letter. Mr. Unangst stated that the correct process for handling this complaint would be an investigation in conjunction with a records inspection. Staff needs to gather the facts and build the case. Once it becomes an open investigative case, no further discussion can take place by Commissioners.

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

PATRICK T. CAFFERY, JR., CHAIRMAN

JAMES D. GOSSLEE, SECRETARY