

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

March 21, 2013

The Louisiana Real Estate Commission held its regular meeting on Thursday, March 21, 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
James Gosslee, Secretary
Mike D. Bono
Tim Flavin
Rodney Noles
Lynda Nugent Smith
Cynthia Stafford
Frank Trapani

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Summer Mire
Tad Bolton
Mark Gremillion
Angela Kirby
Nikki Senegal
Marsha Stafford
Sara Wheeler
Malissa Wright
Jenny Yu

GUESTS

Tadas Dabysys – PSI Testing Services
Eric Piazza – Attorney, Phelps Dunbar
Rick Roberts – ReMax
Wayne Thorburn – PSI Testing Services
Malcolm Young – Louisiana REALTORS

Commissioners Carraway and Ory were unable to attend the meeting.

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

Commissioner Trapani made motion, seconded by Commissioner Flavin, to approve the minutes of the meeting of February 21, 2013. Motion passed without opposition.

PERSONAL APPEARANCES:

1. Thereasa Gransberry– Ms. Gransberry appeared before the Commission in connection with her request to re-apply for a real estate license.

As a result of a formal adjudicatory hearing held on June 21, 2012 on Case Number 2011-825, both the individual real estate broker's license (#BROK.0912122421-ACT) issued to Ms. Gransberry and her licensed corporation, T-Grans Realty, LLC (#BROK.09112122452-CORP) were revoked. Ms. Gransberry

was the qualifying broker of T-Grans Realty, LLC. Ms. Gransberry was a licensed salesperson from November 4, 2005 through December 2, 2007. She was licensed as an individual real estate broker from December 3, 2007 through June 21, 2012.

Ms. Gransberry spoke before the Commission and explained that she was requesting a chance to reapply for her salespersons license. She stated that she needs her job back as she has two children to take care of. She understands that what she did was wrong and that she wasn't trying to hurt anyone. Commissioner Trapani asked Ms. Stafford to explain the charges and background of Ms. Gransberry's case and revocation. Ms. Stafford stated that while serving in her capacity as a broker, Ms. Gransberry prepared a lease agreement and was in receipt of rental payments for said lease. She failed to maintain a rental trust account and failed to place the funds collected as rental payments into said account. Rental payments collected by Ms. Gransberry were used to pay for portions of the owner's mortgage and the other portions were kept by Ms. Gransberry or used to pay for her auto repair. Ms. Gransberry was also in violation for not cooperating with investigators during the investigation.

Commissioner Trapani stated that Ms. Gransberry took money that did not belong to her and commingled funds. Commissioner Flavin made motion, seconded by Commissioner Trapani, to deny Ms. Gransberry's request to reapply for a real estate license. After a roll call vote, motion carried without opposition. Let the record reflect that Ms. Gransberry made many disruptive outbursts during the roll call vote.

2. Wayne Thorburn and Tadas Dabysys – PSI Testing Services

Mr. Thorburn and Mr. Dabysys appeared before the Commission on behalf of PSI Testing Services to discuss Louisiana's current examination services and testing rates. Mr. Dabysys gave an update on current activities taking place. He stated that Mr. Gremillion and a few previous Commissioners have been assisting and giving input on the update for the national exam. He stated that pass rates in the state are pretty stable and that the broker pass rate is very high and higher than most states. He reported that they are seeing an increase in the number of test takers annually. The peak was in 2006 with 4,500 per year. Recently, the dip is down 50% in testing volume. They have seen an uptick in the last quarter of 2012. Commissioner Flavin inquired of the pass rates. Ms. Dabysys stated the broker pass rates were 88% for the state exam and 73% for the national exam. The salesperson pass rates were 74% for the state exam and 72% for the national exam. He stated that a candidate must pass both sections of the exam and that they look at first time pass rates. Commissioner Noles inquired how many states that PSI currently tests for. Mr. Dabysys stated that they test for 22 states and are the largest provider for real estate exams in the nation. The current cost of the exam is \$85.00. Mr. Unangst praised PSI for assisting with any questions that he or the Commission has had. He stated that they are a great vendor to work with and have also assisted with background checks that we have set up for initial applicants. Commissioner Stafford commented that PSI is very involved with ARELLO which is a wonderful asset.

COMMITTEE REPORTS:

1. Budget – Commissioner Stafford reviewed the budget report and cash balances with the Commission. The fiscal year will be finished in the black. LREC is under on operating costs except on personal services and is under on budget as a whole for the year. Mr. Unangst noted that the increase in personal services was due to the 4% merit increase granted to employees for the first time in three years. The 4% increase in personal services is in line with this number. Commissioner Noles inquired of the recovery fund payment that was approved at last month's meeting. He asked if there must be judicial review before payment is made. Ms. Edwards stated that the payment was under a certain dollar amount and therefore was not subject to judicial review. Approval by the Attorney General's office was given before payment was made. Mr. Unangst stated that March will provide a better idea of how the budget looks after the E & O pass through is complete. Commissioner Noles asked if it would be possible to subtotal revenue and expenses as a line item on the report.

(Attachment A)

2. Education/Research/Publication – Commissioner Caffery reported that the subject matter experts are close to completing their respective courses and hope to be finished by the end of April. Once the courses are completed, they will be made ARELLO compliant.

Commissioner Gosslee asked about the instructor certification process and the 70 point requirement. He stated that some instructors are well qualified to teach their course but may not be qualified due to the LREC point system. Mr. Unangst stated that the instructors should submit their applications and staff will work with them to determine additional qualifiers. He

noted that many instructors are intimidated by the application process but find that they are approved after filling the form out. Mr. Unangst stated that they are also organizing a webinar with Louisiana REALTORS to further explain the process. Mr. Unangst stated that he would be happy to come to Shreveport to educate anyone that may be having a problem with the forms. Mr. Gremillion reported that no instructor applicants have been denied as of yet. There has been one or two that have had the opportunity to resubmit because they were lacking information.

3. Legal/Legislative/Timeshare - Commissioner Flavin reported that the Committee met prior to the business meeting. Under old business, the Commission discussed changes to the financing section of the buy/sell agreement. Ms. Edwards read the following language into the record that was approved by the Committee:

BUYER shall make written application for a loan, with a Lender, matching the terms provided for in Lines 55-71 above, no later than _____ calendar days after the Date of Acceptance of this offer by both parties ("Loan Application Period"). If BUYER fails to make written application within this period of time, the SELLER may, at SELLER'S option, terminate this agreement by giving BUYER written notice of their intent to terminate.

BUYER agrees to provide the SELLER with a written Verification of Loan Application from the Lender, which must stipulate, at a minimum, the following: (1) A formal loan application has been completed by the BUYER and received and reviewed by the Lender; (2) BUYER'S credit report has been received and reviewed by the Lender; (3) Lender has received from BUYER all initial documentation of BUYER'S income and assets, as requested by Lender; and (4) Lender has received and reviewed the appraisal of the property. In the event that BUYER does not provide SELLER with a written Verification of Loan Application from the Lender within _____ calendar days after the Loan Application Period, the SELLER may, at SELLER'S option, terminate this agreement by giving BUYER written notice of their intent to terminate if the Verification of Loan cannot be provided within _____ additional calendar days.

Commissioner Trapani made motion, seconded by Commissioner Stafford, to ratify the language read by Ms. Edwards and approved by the Committee. Motion carried without opposition. Chairman Caffery thanked Commissioner Noles for his recommendations on language in the committee meeting.

Commissioner Flavin reported that the deadlines section of the buy/sell agreement was approved to change the language from "midnight" to "11:59 p.m." Commissioner Trapani made motion, seconded by Commissioner Nugent Smith, to ratify the changes made to the deadlines section as approved by the committee. Motion carried without opposition. Commissioner Nugent Smith asked that the Commissioners be allowed to view the amended contract before being distributed and posted to the website.

Malcolm Young of Louisiana REALTORS addressed the Commission and thanked them for their hard work on the amendments this morning and stated that great progress was made on the buy/sell agreement. He asked the Commission to consider making the changes to the buy/sell agreement effective on June 1st, 2013 to minimize confusion in the marketplace. Mr. Unangst reminded that Commission that Ms. Edwards recommendation was to make the amended purchase agreement effective January 1, 2014 so that ample time is given for licensees to reprint and begin using. Mr. Unangst asked what would be the best date and way to minimize confusion. Commissioner Trapani suggested that the amended language immediately be distributed to instructors for the mandatory course and that the amended contract also begin use immediately. Commissioner Flavin suggested that LREC educate and not penalize licensees until the usage is mandatory. After further discussion and recommendation from Ms. Edwards, Commissioner Trapani made motion, seconded by Commissioner Caffery, to make changes to the buy/sell agreement and to make the use of the amended agreement mandatory as of June 1, 2013. Motion carried without opposition. Commissioner Nugent Smith noted that the changes be included in the next issue of Boundary Lines.

Commissioner Flavin stated that the issue of Buyer Acknowledgement of Bonuses Paid/Broker Commissions Paid from Closing Costs Proposed Rule Change was tabled until the March Legal/Legislative Committee meeting.

Commissioner Flavin also asked if there was any changes or updates in Commissioner Ory's condition. Commissioner Nugent Smith stated that there were no changes and that many prayers are needed.

Mr. Unangst discussed the Meeting Rules and Procedures that were originally introduced to the Commissioners in November 2010 when Mr. Unangst first started with the Commission. The Meeting Rules and Procedures were provided in the newly revised orientation manuals that were given to the Commissioners. The Meeting Rules and Procedures was accepted by the Commission but never formally adopted. Mr. Unangst suggested that the Commission review and formally adopt the procedures so that meetings are held clearly and orderly. Commissioner Flavin recommended bringing this item to the next Legal/Legislative Committee meeting for discussion. He asked Ms. Mire to email the proposed Meeting Rules and Procedures to the Commissioners and Ms. Edwards for review.

4. Standardized Forms – No report as it was handled under Legal/Legislative Committee report.
5. Strategic Planning – Commissioner Nugent Smith stated that she is currently reviewing the last strategic plan and updates and is in the planning stage. She will coordinate with Commissioners Trapani and Gosslee to schedule a meeting.
6. Errors & Omissions – Commissioner Bono stated he has received calls from brokers concerning the costs of E & O as they are looking for savings in costs. Commissioner Gosslee stated that LREC needs to look at increasing limits and cost savings. Commissioner Flavin commented that he has had personal experience with E & O coverage wherein a particular suit has exceeded \$400,000 in costs. Mr. Unangst stated that this is the first time wherein LREC has been successful in obtaining optional coverage at \$1,000,000.00 with Rice Insurance. He noted that one size does not fit all on broker coverage. The Commission may want to revisit broker coverage limits. Commissioner Stafford does not think LREC should raise limits on the smaller brokerages because the cost of the real estate business is so pricey now. Commissioner Bono stated that we need to take a hard look the next time the E & O bid comes around. Commissioner Burns suggested that we not raise the coverage from \$100,000 to \$1,000,000 but that the coverage do be increased some. He also suggested that the Commission keep tail end coverage in mind and possibly include this in the next bid. Ms. Edwards reminded the Commission that there is no exposure for the Commission. The Commission should set a minimum coverage and it is up to the licensees to obtain additional coverage above the minimum if they feel necessary. Chairman Caffery suggested that Mr. Unangst poll an ARELLO survey to determine what other states had in place for limits as well as they number of claims received per year. Mr. Unangst stated that this has been previously done and many states are not mandatory E & O states. For those that are, Louisiana falls in the middle.

DIRECTORS REPORT:

Mr. Unangst reported he is meeting with Facility Planning and Control on March 27th to discuss repairs on the building. He feels that FP&C is now working with LREC and is getting closer to where they need to be. Their engineer reaffirmed the LREC engineer report. Repairs will be made to the building and a 6-12 month monitoring period will also take place. Mr. Unangst will make sure that FP&C will file suit to protect the prescriptive rights of the Commission. Mr. Unangst also noted that due to Hurricane Isaac, there were minor repairs to be made to exterior lighting fixtures. This damage will be paid under FEMA funds.

Mr. Unangst reported that he, Mr. Gremillion, and Cindy Rice from Rice Insurance Services held a comprehensive webinar with Louisiana REALTORS to discuss E & O insurance coverage. He reminded that an instructor certification webinar is to come.

Mr. Unangst reported that HB 76 has been pre-filed regarding the Appraisal Management Companies fee bill sunset provision. He reminded that it is important to keep regulations on AMC's and appraisal ordering. The bill is up for reconsideration due to the sunset provision. He asked the Commission for support and formal resolution at the next meeting for HB 76. He also asked Louisiana REALTORS for their continued support. Representative Frank Hoffman has authored the bill for the Appraisers Board. Commissioner Flavin asked Ms. Edwards if they are allowed to lobby as a Commissioner. Ms. Edwards and Mr. Unangst explained that they are not allowed to lobby as Commissioners but may lobby in their licensee capacity and may educate and provide information.

Mr. Unangst advised the Commission that he will be attending the mid-year ARELLO conference in April in Scottsdale, AZ. He will be serving on an Administrator Forum as well as an Appraisal Forum. He asked that any topics needing discussion such as property management, social media and advertising, etc. be brought to him for discussion. Commissioner Stafford stated that she will also be attending the conference and she is serving on the Education Committee. Delivery method standards will be an issue discussed by said committee and asked for any contributions from Commissioners.

PUBLIC COMMENT:

None.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

Mr. Unangst presented the Commission with an outline of an alternative mandatory course for commercial agents. (Attachment B)

Commissioner Trapani made motion, seconded by Commissioner Flavin, to approve the alternate mandatory course. Commissioner Flavin asked how staff would determine who was a commercial agent and who was a residential agent as it may not be beneficial for a brand new residential licensee to take. Commissioner Nugent Smith asked who provided the outline and asked if this outline could be added to. Eric Piazza from Phelps Dunbar Law Firm spoke before the Commission and stated that he wrote the outline for the course. He has been working with Louisiana REALTORS for the past five years in teaching these courses. He stated that they take the mandatory topic and its general topics and then convert it to teach on a commercial basis. They review the residential contract and shift it to commercial application. Chairman Caffery noted that new licensees have reviewed the residential contract in pre-licensing and post-licensing. Ms. Edwards explained to the Commission that the Commission has previously approved other commercial topics in the past. This is not the first time this has come before the Commission. Commissioner Nugent Smith again asked if items could be added to the outline. Mr. Piazza replied that yes, the outline was not finalized and could still add topics. Commissioner Nugent Smith stated that she made several notes of deficiencies in the outline and will get with Mr. Piazza after the meeting to discuss. Mr. Unangst stated that the intent is not for the Commission to approve a specific course but to approve the concept of the alternative commercial course. Each course submitted would be subject to the course approval and instructor certification process of the education division. Commissioner Trapani amended his motion to approve the concept of the alternate mandatory course subject to the course approval and instructor certification approval by the Education Division. Commissioner Flavin seconded the amended motion. Motion carried without opposition.

Stipulation and Consent Orders – Commissioner Flavin made motion, seconded by Commissioner Trapani, to approve the stipulation and consent orders as presented in a memorandum by the Executive Director. Motion carried without opposition.

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

PATRICK T. CAFFERY, JR., CHAIRMAN

JAMES D. GOSSLEE, SECRETARY