

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

November 16, 2017

The Louisiana Real Estate Commission held its regular meeting on Thursday, November 16, 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
Richman Reinauer, Secretary
Lacy Baaheth – arrived at 9:17
Jeffrey Donnes
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
Chad Mayo
Telly Hollis
Debbie DeFrates
Dusty Evans
Jenny Yu

GUESTS

Norman Morris – Louisiana REALTORS®
Kim Calloway – Louisiana REALTORS®
Lisa Baker – Burk Baker School of Real Estate and Appraising
Chris Donaldson – Donaldson Educational Services

Chairman Hebert was unable to attend the meeting.

Commissioner Free led the Invocation and Chair Wolford led the Pledge of Allegiance.

MINUTES

Commissioner Gauthier requested that the first line of the last paragraph on page 2 of the October 19, 2017 minutes be reviewed as she does not feel that it is accurate. She stated that while she was not at the October meeting, she did not call Mr. Lancaster and tell him to teach the On Live format of the Broker Mandatory Course. She stated that she called and asked him why he was not teaching the On Live Broker Mandatory course if it was approved. She asked that the record reflect her intent. Commissioner Donnes made motion, seconded by Commissioner Roberts, to make the requested changes to the minutes of the meeting of October 19, 2017, if needed. Motion passed without opposition.

Commissioner Reinauer made motion, seconded by Commissioner Donnes, to approve the minutes of the meeting of October 19, 2017 with requested changes. Motion passed without opposition.

(Attachment A)

PERSONAL APPEARANCES

The following people appeared in connection with their request to obtain a real estate license:
(Please see official transcript for complete minutes):

1. 2017-1581 Laurel L. Grandon – Commissioner Roberts made motion, seconded by Commissioner Nugent Smith, to approve Ms. Grandon’s request to obtain a real estate license. Motion carried without opposition.
2. 2017-328 Raquel Coleman – Commissioner Reinauer made motion, seconded by Commissioner Donnes, to approve Ms. Coleman’s request to obtain a real estate license. Motion carried 6-2 with Commissioners Ritchie and Nugent Smith voting in opposition.
3. 2016-1311 Wayne Cresap - Commissioner Reinauer made motion, seconded by Commissioner Donnes, to approve Mr. Cresap’s request to obtain a real estate license. Motion carried 6-3 with Commissioners Gauthier, Baaheth, and Norman voting in opposition.
4. 2014-1686 Craig George - Commissioner Reinauer made motion, seconded by Commissioner Roberts, to approve Mr. George’s request to obtain a real estate license. Motion carried without opposition.
5. 2017-1584 Brianna M. Lafrance-Burbank – Commissioner Reinauer made motion, seconded by Commissioner Donnes, to approve Ms. Lafrance-Burbank’s request to obtain a real estate license. Motion carried without opposition.
6. 2017-1589 Tiffany Lord - Commissioner Reinauer made motion, seconded by Commissioner Roberts, to approve Ms. Lord’s request to obtain a real estate license. Motion carried without opposition.

7. 2017-1580 Kimberly Marshall – Commissioner Roberts made motion, seconded by Commissioner Gauthier, to approve Ms. Marshall’s request to obtain a real estate license. Motion carried without opposition.
8. 2017-1587 Shawn Ramsey - Commissioner Gauthier made motion, seconded by Commissioner Roberts, to approve Mr. Ramsey’s request to obtain a real estate license. Motion carried 7-2 with Commissioners Ritchie and Nugent Smith voting in opposition.
9. 2017-1600 Vickie L. Rodriguez - Commissioner Reinauer made motion, seconded by Commissioner Roberts, to approve Ms. Rodriguez’s request to obtain a real estate license. Motion carried without opposition.

COMMITTEE REPORTS:

1. Budget – Commissioner Reinauer reviewed the budget report with the Commissioners, stating that it is a typical end-of-year report. He stated that the Commission is up \$63,316 over the same period from last year. Renewal season has begun. See attached report.

(Attachment B)

2. Education/Research/Publication – Commissioner Gauthier stated that 82 individuals have taken the Train the Trainer course and that all of the feedback has been positive.

She also stated that the Commissioners were given a document detailing the number of seats available for Broker Mandatory courses throughout the state as well as the number of individuals in the area who still need to take the course. Mr. Unangst reviewed the numbers with the Commission and stated that he is positive that there will be enough seats available for all non-compliant brokers. Commissioner Roberts stated that he recently had the opportunity to sit in on a course and that on several occasions the instructor said something to the effect of “I don’t know why the Commission did this” – meaning they did not understand the intent of sections in the course. There was a large lack of guidance and clarification on the part of this instructor. He stated that he thinks there needs to be a mechanism for these instructors to reach out to the Commission to get clarification on their questions. Chair Wolford stated that she does not know who is invited to attend Train the Trainer, but that she believes that anyone who has taught a class in the previous year should be invited. Mr. Gremillion stated that because the Commission no longer certifies instructors, the invitation is sent to vendors and they can share it with anyone they believe should attend the course that may teach for them, etc.

(Attachment C)

Commissioner Gauthier stated that the Education Taskforce will meet after the first of the year to review post licensing guidelines.

3. Legal/Legislative/Timeshare – Commissioner Nugent Smith stated that she and Executive Director Unangst met with Norman Morris and Louisiana REALTORS® attorney Kim Calloway to discuss upcoming legislative issues. She asked that the Commissioners refer to a list of the issues that she prepared that came out of the meeting.

(Attachment D)

Commissioner Nugent Smith stated that she believed a discussion regarding the issue of title companies holding escrow deposits needed to be discussed. She stated that a legislative change might need to be proposed on this issue to clarify the handling of these funds. Chair Wolford stated that she would like to form a taskforce of title attorneys and Commissioners to discuss this issue and come up with language for proposed legislation. She stated that she wants to ensure that whatever the Commission brings to the legislature is viable and likely to be successful. Chair Wolford asked if the commission could force the broker by rule to hold the deposit. Ms. Edwards stated that she will need to review the issue to give better clarity. Mr. Morris stated that Louisiana REALTORS® would be very receptive to participating in a taskforce on this issue. He also stated that another important issue for the Commission to focus on is data security. He stated that this is a growing issue in the industry and needs to be addressed. Mr. Unangst stated that the 2018 mandatory course is on Risk Management, which will be a good way to educate licensees on these important areas of risk in the industry.

Chair Wolford asked Ms. Edwards if she could come back to the Commission with some recommendations on how to move forward with the escrow deposit issue. She also asked for volunteers for the taskforce. Commissioners Nugent Smith, Reinauer, and Roberts all volunteered to participate. Chair Wolford stated that she would contact the commissioners who volunteered as well as Louisiana REALTORS® to set up a taskforce meeting.

4. Standardized Forms – Commissioner Roberts stated that Standardized Forms Taskforce met and made changes to the Property Disclosure. He stated that the edits will be finalized between Ms. Shaw and Patty McMurray and will be sent out to the Commissioners for review prior to the next meeting. He stated that he would like for the Commission to vote on the document at the next meeting.
5. Strategic Planning – Commissioner Baaheth stated that there was supposed to be a Best Practices taskforce meeting the day prior to the regular business meeting, but it was rescheduled to allow time for research. Commissioner Nugent Smith stated that she attended the NAR Annual Meeting and gathered input for the Best Practices taskforce meeting. Commissioner Baaheth stated that Commissioner Gauthier had already addressed the plan for the Education taskforce. Commissioner Baaheth stated that Louisiana REALTORS® will be getting the Communications taskforce some information on Public Service Announcements, social media engagement companies, etc. Commissioner Norman asked for an update on the website. Ms. Shaw explained that the website is in development and should be ready for testing in-house by the beginning of the year and should be ready to go live in the first quarter of 2018. Commissioner Nugent Smith asked if the website will be ADA compliant. Ms. Shaw stated that she discussed ADA compliance with the design firm and was assured that the site will meet ADA requirements. Commissioner Baaheth stated that the Technology committee has not met yet due to the overlapping issues among the different committees. She requested that Ms. Mire send out the progress reports to all commissioners.
6. Errors & Omissions – Commissioner Norman asked Mr. Unangst to clarify the E&O issues. Mr. Unangst stated that the only outstanding issue is the backdating of coverage. He stated that Cindy Grissom of RISC Insurance has presented the Department of Insurance with a form for their approval. She is also developing language to be approved by the Department of Insurance as another option. He stated that, if approved, the form will clear up the issue. Chair Wolford stated that the issue is really one of consumer protection because an agent not having

continuous coverage can harm the public. Mr. Unangst will let the commissioners know once the issue is resolved.

7. Technology – Commissioner Donnes stated that the LREC phone system has been updated to a new VOIP system and is operational. He also stated that the workstation upgrades have been completed. Commissioner Norman requested that Mr. Smart correct the discrepancy in the online renewal page where the incorrect E&O amount is displayed.

DIRECTORS REPORT:

Mr. Unangst stated that past Chairman Jimmy Gosslee requested that each division in the agency give a report on what they were in charge of so that the Commissioners understand who does what in the agency. He reviewed key numbers from the Investigations Division with the Commissioners.

(Attachment E)

Commissioner Roberts asked if the open investigations were ongoing. Mr. Maynor stated that 60% of all cases reported are closed with no action, but all cases have to be fully reviewed so some stay open longer. He stated that there is a 90-day target to investigate and close all cases, but there are outside factors that can delay the investigations. Commissioner Roberts asked if cases can be made without identifying the complainant's name. Mr. Maynor stated that complaints can be made anonymously and then opened at the discretion of Mr. Unangst.

Chair Wolford asked if the generic closing letters for investigations can be tailored or corrected to give more information or clarity on why the case is being closed. Mr. Maynor stated that the letters can be tailored to each investigation. He also stated that each closing letter should state that ethic or civil penalties could still be involved.

Commissioner Roberts questioned if the commissioners would receive any type of notification if a respondent doesn't cooperate fully with a cite and fine notice. Mr. Maynor stated that the respondent would then be brought before the commission and charged with failure to cooperate. Commissioner Roberts then asked Ms. Edwards if the commissioners would be notified if a respondent was a chronic offender whether it be for cite and fine or informal hearing violations. Mr. Maynor explained that the commission passed the Cite and Fine program back around 2011 and gave the authority to the Executive Director and the Investigative Division to levy fines for certain violations. This kept the commission from having to hear every case that involved more minor violations such as failure to annotate, etc. This saves time for the commission and staff. Commissioner Roberts has more heartburn over the fact that they aren't notified of chronic offenders. Ms. Edwards stated that the law allows the respondent to choose either formal or informal hearings. The violations may be different each time. Commissioner Nugent Smith asked if there was any way for them to be notified of multiple offenders. Commissioner Roberts feels like there is harm to the public when there is a multiple offender and he has a problem with how to deal with that. Ms. Edwards stated they would have to do away with informal hearings and hear all cases formally. Commissioner Ritchie asked if they could set some sort of standard for multiple offenders to have to appear formally. Ms. Edwards stated they could do this but she would need direction on which violations would count – any third offense or more specific offenses? Ms. Edwards reminded the commission that during a hearing, they can only consider what the respondent is being charged with at that time and not any past offenses. It is no different than a criminal case. Mr. Unangst suggested that the commission establish a rule, policy or procedure that states if a licensee commits a certain number of

violations in the same law or rule chapter, then they would need to come before the commission for a formal hearing. Ms. Edwards said they could do this but they would need to decide on exactly which provisions of the chapter would be considered repetitive violations. Ms. Edwards stated that she does not know how to streamline that or reign it in. Chair Wolford suggested that this item be referred to Legal/Legislative Committee for further discussion. Commissioner Roberts agreed.

PUBLIC COMMENT:

None

UNFINISHED BUSINESS:

None

NEW BUSINESS:

None

EXECUTIVE SESSION

Commissioner Reinauer made motion, seconded by Commissioner Roberts, to enter into executive session to discuss a personnel matter. Motion carried without opposition.

After executive session, Commissioner Nugent Smith made motion, seconded by Commissioner Roberts, to return to the regular meeting. Motion carried without opposition.

Chair Wolford asked that the meeting move back to Unfinished Business to discuss Chapter 1805 of the rules which in essence allows the broker to give written authorization to the title attorney to cut a commission check directly to the broker's sponsored licensee instead of going directly through the sponsoring broker. Ms. Edwards stated the law specifically says that commission may not be received by anyone other than the sponsoring broker. The commission crafts rules that will go into further explanation or detail of the intent. Commissioner Nugent Smith stated that she doesn't think that it was the intent of the commission to allow licensees to receive commission checks at the closing table from the title company. She asked that Ms. Edwards review the past language and craft language that the commission can review before the next meeting. The commission would like to see the language go back to the way it was before. Commissioner Nugent Smith stated that she would be scheduling a Legal/Legislative committee in conjunction with the taskforce to address many of the issues that were discussed today.

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

EVELYN WOLFORD, CHAIRMAN

RICHMAN REINAUER, SECRETARY