



North Dakota Real Estate Commission Meeting Minutes -- FINAL
10:00 a.m., Thursday, March 21, 2024
1120 College Dr Ste 204, Bismarck, ND

www.realestatend.org

Present: Tate Cymbaluk, chair; Scott Breidenbach, vice chair; members: Sandra Meyer (by Teams), Steven Bitz, Steven Link; David Phillips, special assistant attorney general; staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist; Department of Labor: Commissioner Nathan Svihovec (by Teams); Carolyn Laird, research assistant (by Teams). Members of the public also present.

1. Call to order, roll call and determination of quorum. Chair Mr. Tate Cymbaluk called the meeting to order at 10:00 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all members present.
2. Review and approval of agenda. Mr. Scott Breidenbach moved to approve the agenda as presented. Mr. Steven Link seconded. Motion carried by unanimous voice vote.
3. Q & A with Commissioner of Labor Nathan Svihovec.

The Commissioner of Labor Nathan Svihovec asked questions he and his research assistant Carolyn Laird had about the real estate commission's responses to a questionnaire the Department of Labor issued to all occupational licensing boards as part of an interim legislative study. Questions covered the number of meetings/year, application process, recognition of licensure from other states, continuing education, and technology. The Commissioner of Labor answered questions the Real Estate Commissioners and staff asked about the intent, goal, rational and anticipated benefits of the study, timeline for any potential legislative bill drafts resulting from the study, if the study will incorporate findings from the Department of Commerce's previous study, and next steps in the process. Questions the Commissioner of Labor asked that were not on the questionnaire were about any anticipated law changes resulting from the recent National Association of Realtors' lawsuit settlement (response: not at this time, or possibly some minor law changes), situations where someone who passed the national exam would need to retake that exam, content of the state and national exams, and if we review other states' laws. Real Estate Commissioners commented on the need for market participants on the Real Estate Commission, the licensing mission of consumer protection, the differences in real estate laws between states, the problems other states have experienced with the umbrella model over licensing boards, and concerns with the need or benefit of the umbrella model. The Commissioner of Labor will send a written report on this meeting to the Real Estate Commission for review and will send a short survey to the ND Association of Realtors. The Commissioner of Labor expects to share a full report of the study of all licensing boards with the interim legislative Workforce Development committee this fall. Ms. Prom will share the report of today's meeting and information on the interim committee meeting with commissioners when information is available. The Commissioner of Labor shared the idea of having some data tracking across boards.
4. Review of resident salesperson applicant Amber Fahrnkopf.

Ms. Cieana Schneider, licensing specialist, reviewed the application and Ms. Fahrnkopf provided an explanation and answered questions from the commission. Mr. Steven Bitz moved to allow Ms. Amber Fahrnkopf to take the salesperson examination. Mr. Link seconded. Roll call vote: ayes – Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
5. Update on complaints.
 - A. 2023-06 – Robert Ferderer v. Keedan Holzworth – recommendation, and
 - B. 2024-01 – Nicholas Reed v. Keedan Holzworth – recommendation.

- Mr. David Phillips, special assistant attorney general, explained complaints and responses for complaints 2023-06 -- Robert Ferderer v. Keedan Holzworth and 2024-01 - - Nicholas Reed v. Keedan Holzworth, which resulted from the same property listing, and recommended the commission dismiss both complaints. Mr. Breidenbach moved to dismiss 2023-06 -- Robert Ferderer v. Keedan Holzworth and 2024-01 -- Nicholas Reed v. Keedan Holzworth. Mr. Link seconded. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
- C. 2024-02 -- Lawrence Reid v. Joseph Erb -- recommendation. Mr. Phillips explained the complaint and response and recommended the commission dismiss the complaint. Mr. Bitz moved to dismiss 2024-02 -- Lawrence Reid v. Joseph Erb. Mr. Link seconded. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
- D. 2024-03 -- Tabitha Trimble v. Derek Nolte -- recommendation. Mr. Phillips explained the complaint and response and recommended the commission dismiss the complaint. Mr. Link moved to dismiss 2024-03 -- Tabitha Trimble v. Derek Nolte. Mr. Breidenbach seconded. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
6. Update from management.
- A. Potential unlicensed activity. Mr. Bitz moved that the commission conduct a formal investigation of potential unlicensed activity by Offer Giants, Sugarland, Texas. Mr. Breidenbach seconded. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
- B. Letters of interest in reciprocity. The commission agreed by consensus to direct Mr. Phillips to send letters of interest in reciprocity to the real estate commissions in South Dakota and Montana.
- C. Next meeting. The commission agreed by consensus to reschedule the June 6, 2024 budget meeting to 10 a.m., Thursday, April 25, 2024.
- D. 2023-2024 priorities. Ms. Prom reported progress made since the last meeting.
- E. 2025 mandatory topic. The North Dakota Association of Realtors requested the commission mandate 3 hours on diversity, equity, and inclusion for all licensees for the 2025 CE cycle, in addition to the mandated 3 hours on vacant property and other scams for all licensees, also for the 2025 CE cycle. Mr. Breidenbach moved to require 3 hours of continuing education on diversity, equity, and inclusion, as a mandatory topic for all licensees for the November 16, 2024 through November 15, 2025 continuing education cycle. Mr. Link seconded. Discussion: Setting the mandatory topics months before the CE cycle gives CE providers ample time to develop courses. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
- F. Policies/procedures. Mr. Breidenbach moved to set a formal policy that a firm can have only 1 trade name, also known as a DBA, or "doing business as" name. Mr. Bitz seconded. Discussion: Ms. Prom said this was the commission's practice and Mr. Phillips said this policy could be supported existing regulations. Roll call vote: ayes -- Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk; nays -- none. Motion carried unanimously.
- G. Trust account waivers. Ms. Schneider provided a written report of recent trust account waivers.
- H. Trust account audits. Mr. Yost reviewed recent trust account audits, including initial audits of newly licensed firms. Mr. Yost will email his templates of required records that brokers receive to commissioners and the state association.

- I. License numbers. Ms. Prom reviewed current license and application numbers,
 7. Financial reports – January through February 2024. Mr. Bitz moved to approve the January through February 2024 financial statements. Mr. Link seconded. Motion carried by unanimous voice vote.
 8. Minutes – January 25, 2024 meeting. Mr. Link moved to approve the January 25, 2024 meeting minutes as presented. Mr. Breidenbach seconded. Motion carried by unanimous voice vote.
 9. Other. No other business was discussed.
- Adjourn. Chair Cymbaluk adjourned the meeting at 11:59 a.m.