



North Dakota Real Estate Commission Meeting Minutes – FINAL
10:00 a.m., Thursday, August 12, 2021
1120 College Dr Ste 204, Bismarck, ND 58501

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Present: Steven Bitz, chair; Steven Link, vice chair; members: Tate Cymbaluk, Scott Breidenbach, and by phone – Sandra Meyer; Constance Hofland, special assistant attorney general; staff: Jeanne Prom, executive director; by phone – Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist. Members of the public also present in person and by phone.

1. Call to order, roll call and determination of quorum. Chair Mr. Steven Bitz 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. Tate Cymbaluk moved to approve the agenda as presented. Mr. Steven Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
3. Review of applicants. See attachment for actions on all license applications.
4. Update on complaints.
 - A. 2021-01 – Sharina Fitts v. Jodee Heimdahl. Mr. Cymbaluk moved that complaint 2021-01 be set for a hearing. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
 - B. 2021-02 – David Radermacher v. Naomi Turner. Mr. Cymbaluk moved that complaint 2021-02 be dismissed. Mr. Scott Breidenbach seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
 - C. 2021-03 – Rodney and Linda Wentz v. Barbara Were. Ms. Connie Hofland reported that Mr. and Mrs. Wentz requested the complaint be withdrawn. Ms. Sandra Meyer moved to allow complaint 2021-03 to be withdrawn. Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
5. Administrative Rules – advertising and teams, final approval of drafted changes.

The commission reviewed the complete draft changes to North Dakota Administrative Code (NDAC) Chapter 70, including Ms. Connie Hofland's draft language options on advertising and teams. Ms. Hofland noted that depending on how advertising rules may change, the commission may want to consider a policy for a grace period to allow licensees time to comply with changes. Ms. Jill Beck from N.D. Association of Realtors agreed with the recommendation. Mr. Cymbaluk moved that based on this input the commission adopt Ms. Hofland's recommendation for a grace period of no more than 24 months from the effective date of the final administrative rules for licensees to comply with the advertising rules changes. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

Members of the North Dakota Real Estate Commission are: Steven Bitz, Chair; Steven Link, vice chair; members: Tate Cymbaluk, Scott Breidenbach, and Sandra Meyer. Special Assistant Attorney General: Constance Hofland. Staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist.

The commission agreed to this language on: NDAC 70-02-03-02.1 Advertising. 1. Trade Name. Advertising must be done in the real estate brokerage agency's trade name as licensed with the commission and the trade name must be prominently displayed equal to or greater than, in size and visibility, the name of any salesperson, associate broker, or team on the advertising.

The commission agreed to this language on: NDAC 70-02-03-02. Advertising. 1. Teams. A team is two or more licensees who work for the same brokerage under the supervision of the designated broker, work together on real estate transactions to provide real estate brokerage services, represent themselves to the public as being part of a team, and are designated by a team name. Advertising by a team must comply with all requirements of 70-02-03-02.1 of North Dakota Administrative Code. Teams may not advertise in any manner which suggests a team is an independent real estate brokerage firm.

The commission agreed on this language added at the end of NDAC 70-02-01-21 Responsibilities of designated broker: The designated broker is responsible for supervising teams and must have a written policy that identifies and describes the team relationships in which its licensees may engage. Designated brokers must maintain a chronological written record of all teams and team membership and provide such records to the commission upon request.

Mr. Link moved to approve the draft amendments to NDAC Chapter 70. Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

6. Update from management.

A. Final CE audit report. Mr. Yost presented the final continuing education (CE) audit report for the CE cycle November 16, 2019 through November 15, 2020, showing 6 licensees did not complete the required 9 CE hours or did not complete 3 hours on the mandatory topic. Mr. Breidenbach moved the commission initiate complaints against the licensees and their brokers found by the audit to have not completed the required 9 CE hours or to have not completed the 3 hours on the mandatory topic. Mr. Cymbaluk seconded. Discussion: Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

B. 2021-2022 priorities. Mr. Cymbaluk moved to adopt the 2021-2022 priorities as amended by adding continuing education compliance and executive director performance standards. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously. The commission agreed that Ms. Meyer and Mr. Bitz will conduct a performance review of Ms. Prom for 2020-2021.

C. Trust account waivers. Ms. Prom shared a list of firms issued trust account waivers since the last meeting. The commission discussed that staff should advise brokers who have trust accounts drawing interest beyond August 1, 2021 to forward the interest to where it had been sent before, and the broker should be educated on the law changing trust accounts to non-interest bearing. This first offense should be considered an educational opportunity on a case-by-case basis. If accounts were still interest-bearing at a future trust account audit, then further action may be considered for an additional offense.

D. Mandatory course – 2023. Mr. Breidenbach moved that the mandatory hours needed to renew active licenses for 2023 are 3 hours on respect, ethics and professionalism; and an additional 3 hours on fair housing. Mr. Cymbaluk seconded. Discussion: There

will be 2 mandatory topics and 3 hours on both topics must be completed. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

- E. 2022 renewals – E & O insurance. Mr. Cymbaluk moved that the commission will not require errors and omissions insurance certificates uploaded as part of renewals, as the commission is receiving this information directly from Rice Insurance or through other processes. Mr. Breidenbach seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
- F. License application numbers. Ms. Prom shared license application numbers.
7. Financial reports – May and June 2021, 2021-2022 budget. Mr. Yost reported that 3 of 30 of his offers for a courtesy trust account audit were accepted. Mr. Breidenbach stated that these courtesy trust account audits should continue to be offered. Mr. Cymbaluk moved to accept the financial reports as presented. Mr. Link seconded. Discussion: Mr. Yost noted that the 2021-2022 budget reflects the transition of the program assistant position from full-time temporary to full-time permanent with all benefits. Motion carried by unanimous voice vote.
8. Minutes – June 20, 2021 meeting. Mr. Breidenbach moved to approve the minutes from the June 20, 2021 meetings with 2 changes: in 4. Financial Reports on page 1, a statement be inserted that Mr. Breidenbach requested the CE audit report to commissioners include brokers and licensees, the issue and the licensee response. In number 5. 2021-2022 draft budget and priorities, on page 2, the word “exceeded” should be removed. Mr. Cymbaluk seconded. Motion carried by unanimous voice vote. The commission agreed by consensus that at its next meeting it will get input from Ms. Hofland on the practice of recording meetings.
9. Other business – The commission set 2022 meeting dates for the following Thursdays: January 13, March 10 and June 9, with the June 9 meeting in Medora.
10. Adjourn. Chair Bitz adjourned the meeting at 12:12 p.m.

Attachment



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3. Review of applicants

NAME and LICENSE APPLICATIONS:	ACTION BY COMMISSION:
<p>A. Julie Doyle – not present by phone or in person broker</p>	<p>Mr. Bitz called an executive session of the commission at 10:07 a.m. to discuss confidential information pursuant to NDCC chapter 12-60. Present for the executive session in the room and on the phone were the 5 commissioners, Ms. Hofland, Ms. Prom and Ms. Schneider. The commissioners discussed Ms. Julie Doyle’s application. At 10:11am, Mr. Bitz ended the executive session and reconvened the regular commission meeting with the public again present. Mr. Cymbaluk moved to allow Ms. Julie Doyle to take the broker license examination. Ms. Meyer seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.</p>
<p>B. Jody Forehand – present on phone salesperson</p>	<p>The commissioners discussed Mr. Jody Forehand’s application, which was tabled from the June 10, 2021 meeting and now included 3 letters of character reference the commission requested. Mr. Cymbaluk moved to allow Mr. Jody Forehand to take the salesperson license examination. Mr. Link seconded. Discussion: Mr. Link asked that commissioners who vote to deny the application state their reason for their vote. Roll call vote: ayes – Ms. Meyer, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – Mr. Breidenbach. Motion carried 4-1.</p>