

North Dakota Real Estate Commission
March 10, 2004
Peace Garden Room
State Capitol Building
Bismarck, ND
8:00 AM

Present: Roger Cymbaluk/Chair, Kris Sheridan/Vice Chair, Diane Louser/Member, Jerry Youngberg/Member, Jerry Schlosser/Member, David Reich/Legal Counsel, Patricia M. Jergenson/Secretary Treasurer

1. Chair Roger Cymbaluk called the meeting to order.
2. APPROVE MINUTES OF PREVIOUS MEETING. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the minutes of the previous meeting as written. M/C
3. APPROVE FINANCIAL REPORTS FOR JANUARY AND FEBRUARY 2004. The financial reports were reviewed as well as the detailed reports on the accounts as requested by the Commissioners. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the January and February financial reports as presented. M/C
4. REVIEW FORMAL COMPLAINTS PENDING BEFORE THE NORTH DAKOTA REAL ESTATE COMMISSION.
Complaint# 2003-08 Joseph Martin v. Sandy McLachlan and Sally Zimny.
The commission reviewed the formal complaint filed by Joseph Martin alleging that the licensees handled the transaction in an unprofessional manner and that Sandy McLachlan shared confidential information about his offer with Sally Zimny who then used this information to write a competing offer from another party. Mr. Reich recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Sheridan moved, seconded by Commissioner Schlosser to dismiss the complaint. M/C
Complaint# 2003-09 Les & Karen Luther v. Ken Hiltner, JoAnn Christensen, and Arlo Hendrickson.
The commission reviewed the formal complaint filed by Les & Karen Luther alleging a number of concerns about the manner in which the respondents handled their attempt to purchase a home. Mr. Reich recommended that the complaints against JoAnn Christensen and Arlo Hendrickson be dismissed due to insufficient evidence to substantiate any alleged violation. Mr. Reich recommended that the complaint against Ken Hiltner be scheduled for hearing. Commissioner Sheridan moved, seconded

by Commissioner Louser to set the complaint against Ken Hiltner for hearing. M/C Commissioner Sheridan moved, seconded by Commissioner Schlosser to dismiss the complaints against JoAnn Christensen and Arlo Hendrickson. M/C Commissioner Cymbaluk abstained from voting on the motions.

Complaint#2003-10 John Werner v. Dick Olson. The Commission reviewed the formal complaint filed by John Werner alleging that Dick Olson provided him with false and misleading information in response to his inquiries about unattached structures in his subdivision. Mr. Reich recommended that the complaint be dismissed as it did not appear that the Commission had any jurisdiction over the matters alleged in the complaint. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss the complaint and send a letter referencing the option of filing an ethics complaint with the local Board of REALTORS®. M/C Complaint#2002-05 M/M Wayne Praus v. Ron Schoch. This complaint had been tabled due to the fact that it was under pending civil litigation. The civil matter has been settled and therefore Complaint#2002-05 and Complaint#2001-06 have been brought back for review. Commissioner Louser moved, seconded by Commissioner Youngberg to set both complaints for hearing. M/C

Complaint#2002-10 Jane Nelson v. Mike Puklich. Mr. Reich recommended approval of the proposed stipulated agreement of a \$250.00 fine and a letter of reprimand for Mr. Puklich. Commissioner Louser moved, seconded by Commissioner Sheridan to approve the stipulated agreement. M/C

Complaint#2003-04 Deborah Calavera v. Mike Puklich and John Sauter. Mr. Reich recommend approval of the proposed stipulated agreement of a \$250.00 fine and letter of reprimand for each licensee. Commissioner Youngberg moved, seconded by Commissioner Louser to approve the stipulated agreement. M/C (4 ayes, 1 nay/Commissioner Schlosser)

5. REVIEW CORRESPONDENCE REGARDING GRAND FORKS HERALD MARKETING PLAN. Mr. Reich noted that the letter states that the Herald was assisting (providing value added service) to its customers. Mr. Reich will continue corresponding with Mr. McDonald to work out some parameters with the ND Newspaper Association on verbiage such as "our listings".
6. REVIEW APPLICATION FOR SALESPERSON LICENSE. Commissioners reviewed the application of Jason Spiess. Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve Jason Spiess to sit for the examination. M/C Commissioners will also review applications with bankruptcies within ten years of the date of application.
7. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioners reviewed requests for trust account waivers from Michael S. Qualley and Kelly L. Seiler. Both licensees are broker associates. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the trust account waivers. M/C
8. REVIEW APPLICATION FOR REGISTRATION OF SUBDIVIDED LAND. The application submitted by Soleil LV, LLC for registration of timeshare units in Club de Soleil Vacation Club was reviewed. Commissioner louser moved, seconded by Commissioner

Youngberg to approve the application pending verification of a Surety Bond in the amount of \$25,000. M/C

9. REVIEW CORRESPONDENCE FROM LILLIAN LIVINGOOD. Ms. Livingood wrote requesting to be able to retake the broker's examination citing a problem with the equipment. Secretary Treasurer Jergenson informed the Commission that AMP has since contacted the Commission office stating that they have verified the problem and will reschedule her as soon as possible.
10. APPROVAL OF COLLEGE COURSES. A licensee requested that a course from a college be approved for ce. It is necessary for the college to submit a course sponsor application.
11. CHANGE OF RESIDENCE AND CE REQUIREMENTS. A question was posed as to our policy in a situation where a licensee with a reciprocal license becomes a resident of North Dakota close to the end of the year – are they required to meet the North Dakota ce requirements? Secretary Treasurer Jergenson stated that the individual was required to have the education as required by law. It was noted that reciprocity applies to education as well so there should not be a problem. No change in the procedure was recommended.
12. INCORPORATION OF LICENSED SALESPEOPLE. NDCC 45-23-05 requires that in order for a corporation to be licensed at least one shareholder or officer of the corporation must hold a license as a real estate broker. Many salespeople are requesting that we consider allowing them to incorporate. This is a legislative issue. Of concern to the Commission is the possible loss of jurisdiction over the licensee through their corporation. The Commission will work jointly with the North Dakota Association of REALTORS® on finding a solution to this issue.
13. DISCUSS INITIATED CONSTITUTIONAL MEASURE TO REQUIRE VOTER APPROVAL OF TAX INCREASES. This was brought to the Commissioners as an awareness item. Passage of the measure would impact how license fees are set.
14. OTHER BUSINESS:
 - a. Commissioners reviewed a letter from James Felton. Secretary Treasurer Jergenson has sent a response.
 - b. Chad Wachter sent a letter requesting a waiver of the 2-year experience as a salesperson required prior to being allowed to take the broker examination. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the 2-year experience with the understanding that the requirement of the 90 hours of education stands. M/C
 - c. Renewals: Methods to streamline the processing of renewals was discussed. Staff was asked to contact Montana, Minnesota, and South Dakota regarding the affidavits they use for continuing education. John Iverson and Hilary and Catherine Ryan, licensees who had missed the March 1st deadline to submit their renewals, requested that the Commission renew their licenses. Commissioner Schlosser moved, seconded by Commissioner Louser to cancel the licenses in accordance with NDCC 43-23-13.1. M/C
 - d. Secretary Treasurer Jergenson will appear before the Administrative Rules Committee on March 24,2004 to provide testimony regarding the rules changes.

- e. The proposed budget for the Central District Conference was discussed. Costs are becoming prohibitive. It was the consensus of the Commissioners to withdraw from hosting the conference.
 - f. Budget information will be published in the next newsletter showing the number of licensees, gross income, and expenses. The goals of the Commission will be published as well.
 - g. Claus Lembke, NDAR EVP informed the Commission of some of NDAR's legislative issues: change the ce requirement to 9 hours every year, incorporation of salespeople, correspondence vs. online courses, disclosure of sales prices and disclosure of meth labs.
 - h. Renewals for 2004 were on target with the budgeted figures.
- Commissioners conducted interviews of applicants for the auditor position. References will be checked and Commissioners will be informed of the results via email or conference call.

There being no further business Chair Roger Cymbaluk adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer