

MINUTES

The Alabama Real Estate Commission met February 10, 2010, at the Bryant Conference Center, Smith Board Room on the University of Alabama campus, Tuscaloosa, Alabama.

Those present were Chairman Sheila Hodges; Vice Chair Jewel Buford; Commissioners Steve Cawthon, Clif Miller, Jan Morris, Bill Watts and Nancy Wright; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth and Assistant Information Technology Manager Brett Scott. Commissioners Bobby Hewes and Dorothy Riggins-Allen were absent with notice.

The meeting having been duly noticed according to The Open Meetings Act was called to order at 1:15 p.m. by Chairman Sheila Hodges.

Chairman Hodges recognized and welcomed former Commissioners Bill Poole and Ruth Whitley. She also welcomed AAR (Alabama Association of REALTORS®) Executive Vice President J. Danny Cooper, AAR President Keith Kelley, Hal Tillman from Birmingham, and Cathy Czukor and several of her agents from Tuscaloosa.

Commissioner Watts moved to approve the January 21, 2010 minutes. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

Executive Director Philip Lasater highlighted in overview the January 2010 financial statement. He briefly discussed receipts and disbursements. He called attention to the portion of the report which depicts the Recovery Fund, noted the fund numbers from inception to date and said that Mr. Booth will have a more detailed report on the recovery fund later in the meeting.

Mr. Lasater focused his Executive Director's Report on a review of proposed legislation of interest to the Commission. He noted he has been working with Carl Clark of AAR on the apartment manager's exemption. Legislative Reference has prepared a draft. Bill sponsors have not yet been secured but that should happen within the next week or two. Commissioners attention was called to SB 119 and HB 132 that if passed would adversely impact online transactions and our licensing process. AARB (Alabama Association of Regulatory Boards) and representatives from Alabama Interactive have been talking to legislators about this bill's impact. If passed licensees could pay license fees online but no license could be issued without documentation of legal presence being received and reviewed by Commission staff. The other piece of proposed legislation we are interested in and watching is from CJIC (Alabama Criminal Justice Information Center). This legislation would allow electronic exchange of application data with verification of criminal background and enhance our licensing process. Commissioners went on record last year as supporting this.

Commissioner Watts shared with Commissioners that there is a bill that removes the licensing exemption in License Law for apartment managers. He explained that the legislation will exempt only persons acting as an onsite manager or leasing staff for an apartment building or complex if they have a designated office on the premises and if duties are limited to work at that particular site. AAR has adopted this proposal as one of their bills and placed it on their priority list.

Chairman Hodges gave a report from the meeting held on January 25, 2010 in Orange Beach, Alabama to discuss how Travelocity, Orbitz and other like companies handle escrow money as it relates to rental units handled by licensed real estate companies. She reported that about twenty brokers were in

attendance and these brokers use various software to address this issue. Whereas no general consensus was reached on how to address the problem of consumers knowing where their money is at any time during the process, there was a lot of clarification that was helpful to those in attendance. Chairman Hodges thanked Mr. Sowell for his attendance and input. Mr. Sowell clarified that the Commission will deal with this issue with education and not by writing a rule. Chairman Hodges confirmed that his understanding is correct. Mr. Sowell suggested that he and the Chairman work on an article for the Commission's newsletter. The Chairman stated that the article should cover the following: those brokers utilizing the services of travel companies need to clarify for the consumer customer who the leasing agency brokerage is and the consumer customer needs to get notice concerning where their money is during the reservation process.

Commissioner Morris was asked to give a report on the CAM (Community Association Management) task force. She reported that the task force has met several times. She then asked for input from either Commissioners or guests. AAR President Keith Kelley reported that IREM (Institute of Real Estate Management) has approached him and would like to make a presentation to the task force and he is just passing that message along. Chip Watts who is the legislative liaison for IREM followed up that IREM opposes a separate license for managers of Homeowner Associations. IREM has several points they would like to present at a future meeting. Mr. Watts explained that NAR (National Association of Realtors) does not have a national policy on this but defers to their institute affiliate IREM. Commissioners asked Mr. Watts if IREM would place their discussion points in writing and send them to the Commission for review prior to the next task force meeting. IREM was invited to attend the next meeting scheduled for March 9, 2010 at 9:00 a.m. at the Commission office. Commissioner Watts stated it would be appropriate if at that same meeting the task force could hear from AAR. Mr. Danny Cooper, Executive Vice President of the Alabama Association of Realtors, stated that AAR's position would be the same as IREM's and they would want to hear directly from IREM. He stated it would be important for IREM and AAR to address both the task force and the Commission since it is not known what the task force will do.

Chairman Hodges complimented the task force for narrowing the focus this year. In referencing the draft legislation, she asked that the current language for associations to reach the threshold of regulation be increased from annual budgets of \$100,000 or above to \$250,000 or above. The purpose is not to regulate smaller associations as most of them are handled by CPA firms. Passage of legislation to require licensure would insure protection of the consumer's money.

Mr. Booth reviewed the pending appeals and recently completed appeal cases along with pending and completed recovery fund cases. Commissioner Watts asked that the dollar amount of the recovery fund cases be added to the report. He has concern about the possible obligation of the fund. Mr. Sowell explained that payments are only made out of the recovery fund if Errors and Omissions insurance does not pay or if the licensee cannot otherwise pay when a judgment is rendered. Licensees are only assessed again if the fund falls below \$500,000 and that has not happened since the fund's inception in 1979.

Mr. Booth then gave a report on timeshare registrations, project renewals and advertising submissions and referred Commissioners to the written reports that had been prepared for their review.

Chairman Hodges mentioned the ARELLO meetings as noted on the agenda and moved into the not appearing items.

NOT APPEARING ITEMS FOR DISCUSSION

Continuing Education Course Requirement for the 2011-2012 License Period

After discussion Commissioner Morris made a motion to make no change to the current requirement which is completion of 12 hours of elective CE courses and 3 hours of required Risk Management for the 2011-2012 license period. Commissioner Miller seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Bernita R. Andrews, Formal Complaint No. 3166

Upon review of the evidence and testimony presented in the matter of Bernita R. Andrews, Inactive Salesperson, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16), by presenting to the Alabama Real Estate Commission, for payment of a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Cawthon made a motion to find her guilty and fine her \$250. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Shannon Braswell, Formal Complaint No. 3175

Upon review of the evidence and testimony presented in the matter of Shannon Braswell, inactive temporary salesperson, Dothan, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) in that Ms. Braswell presented to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Morris made a motion to find her guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Kathy B. Byrd, Formal Complaint No. 3170

Upon review of the evidence and testimony presented in the matter of Kathy B. Byrd, Inactive Salesperson, Gadsden, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16), in that Ms. Byrd presented to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Morris made a motion to find her guilty and reprimand her. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

Kristin E. Walden, Request for Extension to 90-day Deadline, Investigative File I-13,297

Upon review of Ms. Walden's request for an extension to the 90-day deadline for submitting application for temporary salesperson's license, Commissioner Buford made a motion to deny the request. Commissioner Wright seconded the motion and it passed 6-1 with Commissioner Morris voting no.

Carolyn Sims, Request for Second Extension to Take and Pass the Salesperson's Exam, Investigative File I-13,248

Upon review of the request by Ms. Sims for a second extension to take and pass the salesperson's exam, Commissioner Buford made a motion to deny the request. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

Gloria Brown, Request for Commission Consideration to Renew Lapsed Broker's License, Investigative File, I-13,308

Upon review of Ms. Brown's hardship request for Commission approval to renew her lapsed broker's license, Commissioner Watts made a motion to grant her request. Commissioner Morris seconded the motion and it passed 6-1 with Commissioner Buford voting no.

Confirmation of Next Meeting Date and Location for the Record: March 10, 2010 at 9:00 a.m. in Montgomery

Commissioner Watts made a motion to approve the next Commission meeting date and location for March 10, 2010 at 9:00 a.m. in Montgomery, Alabama. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

There being no further business, the meeting adjourned at 2:25 p.m.

Done this 3rd day of February, 2010.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary