

MINUTES

The Alabama Real Estate Commission met at 10:00 a.m., October 22, 2004, at the Auburn University Hotel, Meeting Room "A", 241 South College Street, Auburn, Alabama.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Education Specialists Ryan Adair and David Bowen.

Chairman Poole called the meeting to order and declared a quorum present. He extended a special welcome to Jewel Buford in her first meeting since her term began October 1.

In accordance with 34-27-7(f), Chairman Poole called for election of Chair and Vice Chair. Commissioner Hays nominated Bill Poole as Chair. Commissioner Hewes seconded the nomination. Commissioner Henderson moved the nominations be closed. Commissioner Hodges seconded the motion. The motion passed unanimously 9-0 and Bill Poole was elected Chair.

Commissioner Hays nominated Gordon Henderson as Vice Chair. Commissioner Hodges seconded the nomination. Commissioner Bragg moved the nominations be closed. Commissioner Hodges seconded the motion. The motion unanimously passed 9-0 and Gordon Henderson was elected Vice Chair.

Commissioner Lovejoy moved to approve the September 24th meeting Minutes as presented. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

The FY 04 year end financial statements and the September financial statement were reviewed with no action taken. Executive Director Philip Lasater reminded Commissioners about the new SMART budgeting process and the timeline for the submission of the 2006 budget proposal. Copies of proposed 2006 budget will be available at the December meeting for Commission approval and can be amended if necessary before the Legislature convenes in February.

Chairman Poole recognized and welcomed AAR President Randy McKinney, AAR Task Force Representative Peyton Norville and Robert Scott. Additional information is presented in follow up to the AAR Governmental Affairs Committee meeting wherein Commissioners were asked to respond to a proposed definition of "Minimum Services" legislation that would remedy problems in several market areas. Upon full and complete discussion

Commissioner Henderson moved that the Real Estate Commission go on record supporting an amendment to 34-27-84 that would require a licensee at a minimum when accepting a listing to accept delivery of and present to the consumer offers and counter offers and addenda; assist consumer in the negotiating offers, counter offers and addenda; answer the consumer's questions relating to the transaction. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Philip Lasater, in his Executive Director's report, provided a renewal update, review of license and examination report and a staffing progress report. Pat Anderson, Assistant Executive Director, augmented these reports after being required to become deeply hands on involved in the licensing process in the absence of Annie Hall. In response to Commissioner initiatives and request for resource support Mr. Lasater recommended the Commission approve establishing an Attorney I classification and authorize proceeding with the Department of Personnel for approval to hire. The Attorney I position would assist the General Counsel in brief writing and appearances on appeal, case preparation and presentation, time-share registration review enabling the General Counsel to do more specialized legal research and advisement on legal regulatory matters. Upon review and discussion, Commissioner Mallory moved to approve establishing an Attorney I classification and hiring when authorized. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

A proposed tentative calendar for meetings in 2005 was reviewed. Commissioner Bragg moved for adoption with the understanding that Commissioners may amend as they deem necessary. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

General Counsel Charles Sowell provided an update on circumstances surrounding the Angel Hearing in Mobile County. Following a review of all hearings to be scheduled Commissioner Hays moved that the Commission's scheduled December 3rd meeting be held in Mobile. Commissioner Henderson seconded the motion and it passed unanimously 9-0. General Counsel was further instructed to move with all haste and energy to prepare for the Angel Hearing on December 3rd and that it be the only hearing on the agenda. If procedural matters prevented the hearing from materializing, then alternative hearings for the Baldwin Mobile area would be scheduled.

NOT APPEARINGS

Alabama Real Estate Commission vs. Kathy Tucker, Formal Complaint No. 2827

Upon discussion of the evidence and testimony presented in the matter of Kathy Tucker, Qualifying Broker, Cyre-Leike Realtors, Hixson, Tennessee, and the alleged violation of the Code of Alabama 1975, as amended, Section

34-27-36(a)(19) by failing to comply with the Alabama Real Estate Commission Rule 790-X-3.01 in that Respondent failed to notify the Commission within 30 days of moving the office location, Commissioner Hodges moved to find Ms. Tucker guilty and to fine her \$100. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Philip J. Fischer, Formal Complaint No. 2831

Upon discussion of the evidence and testimony presented in the matter of Philip J. Fischer, Qualifying Broker, Philip Fischer Real Estate Company, Eclectic, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) in that he 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 Henderson moved to find Mr. Fischer guilty and to fine him \$250. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Lawanda Mosley, Request for Waiver of Late Penalty Fees, I-11,458

Upon discussion of Ms. Mosley's request for waiver of Commission Rule 790-X-2.16, in that she did not meet the renewal deadline and failed to notify the Commission that she did not receive a renewal notice by August 10. Commissioner Hewes moved to deny the request for waiver of the late penalty by Ms. Mosley. Commissioner Buford seconded the motion and it passed 8-1 with Commissioner Hays voting no.

George F. (Sonny) Hocutt, Applicant for Determination of Licensing Eligibility, I-11,402

Upon discussion of Mr. Hocutt's application for determination of licensing eligibility, Commissioner Hodges moved to deny the license eligibility of Mr. Hocutt. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Gustavus Bass, Formal Complaint No. 2830

Upon discussion of the evidence and testimony presented in the matter of Gustavus Bass, Qualifying Broker, Capital Asset Advisors, Inc., Durham, North Carolina, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that he failed to notify the Commission with 30 days of having moved his office location, Commissioner Hodges moved to find Mr. Bass guilty and to fine him \$100. Commissioner Hays seconded the motion and it passed unanimously 9-0.

Beverly Roberts Barrett, Request for Permanent Waiver of Office Requirements, I-11,461

Upon discussion of Ms. Barrett's request that she be allowed to operate from her home permanently, as opposed to the six months allowed due to Hurricane Ivan, Commissioner Hodges moved to deny the request for a permanent waiver of the place of business requirement by Ms. Barrett. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Request from AAR for approval of a 1 ½ Hour Marketing Course for Continuing Education

Upon consideration of the request from AAR to approve a 1 ½ hour Marketing Course for continuing education credit, Commissioner Hodges moved to deny the request because it is not a component of an approved 3 hour course. Commissioner Bragg seconded the motion and it passed 8-1 with Commissioner Hays voting no.

There being no further business the Commission adjourned at 11:55 a.m.

Done this 22nd day of October, 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary