

MINUTES

The Alabama Real Estate Commission met at 1:30 p.m. on February 12, 2004, at the University of Alabama, Alston Hall, Tuscaloosa, Alabama.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Education Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly and Hearing Officer Tori Adams-Burk.

Chairman Poole called the meeting to order and declared a quorum present at 1:30 p.m. Mr. Poole welcomed Mr. Roland Thomas and Ward McFarland who were in attendance to observe.

Commissioner Lovejoy moved to approve the January 21 Minutes as presented. Commissioner Hays seconded the motion and it passed unanimously 9-0.

The financial report for January was reviewed with no action. It was noted that revenue was up considerably over projections. There was a corollary increase in the number of exams taken and licenses issued, thus accounting for the revenue increase. The total capital outlay appropriation is approximately \$800,000. Projected carryover to FY 05 is \$350,000 even with contract deducts and alternates added back into the building project.

Chairman Poole recognized Executive Director, Philip Lasater for his report. A written report was provided and elaborated as requested.

Building Project Update

Mr. Lasater reported that the project is moving along in accordance with the projected timeline. The only expected contingency expenditure is to accommodate floor access panels where specifications were not complete enough to allow for adequate pricing. In view of the existing capital outlay authority, the projected carryover, the real needs reflected in the alternates and deducts (that were a deferred elimination as a demonstration of stewardship). Discussion was held to consider addressing the building maintenance and upgrades needed with the capital outlay authority that exists with the attic renovation project. It will have been 13 years since any interior floor or wall surface has been upgraded. Roof leaks and deterioration along with the new sections related to the attic make it prudent to undertake a total re-roof. After fully reviewing the project status, capital outlay appropriation status, revenue and carryover projections, Commissioner Lovejoy moved to approve submitting change orders for the alternates in the initial bid, to pick up a modified list of deducts and complete the upgrade of all interior wall and floor surfaces. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

It was the consensus of the Commission that the Executive Director prepare correspondence for the Chair to communicate to AAR leadership the development and implementation of the online CE crediting program. Instructors will be trained throughout the spring and summer with full details disclosed to all licensees prior to the beginning of the new continuing education period.

Rule Amendment Timeline

Education Director Pat Anderson was recognized to provide an overview of the projected timeline for promulgating and amending education rules to be effective in October. Commissioner Bragg moved to approve the proposal. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Consumer Guideline Task Force

After reviewing and discussing various potential areas for modification, the Commission felt they would benefit from a Commission editing team to compile the collective review of other Commissioners. Chairman Poole appointed Commissioners Bragg and Hodges to conduct the review and report when completed.

HEARINGS

Alabama Real Estate vs. Joseph H. Graham, Formal Complaint No. 2764

Upon discussion of the evidence and testimony presented in the matter of Joseph H. Graham, Qualifying Broker, Joseph H. Graham, J.H. Graham LLC, d/b/a Southern States Realty, Jasper, Alabama, 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-1-12(8) and Rule 790-X-1-12(9) in that he failed to supply, upon request, original certificates of completion of approved continuing education courses and by the false or inaccurate filing of the renewal, Commissioner Henderson moved to dismiss the Formal Complaint. Commissioner Hewes seconded the motion. Discussion ensued after which Commissioners Henderson and Hewes withdrew their motion and second. Commissioner Hodges moved to find Mr. Graham guilty and to reprimand him. Commissioner Whitley seconded the motion. Following discussion, Commissioner Whitley moved to amend the main motion to give Mr. Graham sixty (60) days to complete the six elective CE hours to satisfy the requirement the unapproved course did not meet. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Kelly L. Garrett, Denied Applicant for Salesperson's License, I-11,210

Upon discussion of Ms. Garrett's application for temporary salesperson's license and the testimony presented in her hearing, Commissioner Hodges moved to deny her application. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

George Daniel Wiley, Applicant for Determination of Licensing Eligibility, I-11,248

Upon discussion of Mr. Wiley's eligibility for licensure and the information he presented in his appearance, Commissioner Bragg moved to deny Mr. Wiley's licensing eligibility. Commissioner Hewes seconded the motion and it failed 2-7 with Commissioners Hays, Henderson, Hodges, Lovejoy, Mallory, Poole and Whitley voting no. Commissioner Hays moved to approve Mr. Wiley's licensing eligibility. Commissioner Whitley seconded the motion and it passed 7-2 with Commissioners Bragg and Hewes voting no.

NOT APPEARING ITEMS FOR DISCUSSION

Shaye Johnson, Denied Application for Original Salesperson's License, I-11,253

Upon discussion of the issuance of Ms. Johnson's original salesperson's license, based on the completion of a post license course completed in September, 2002, Commissioner Henderson moved to approve the salesperson license of Ms. Johnson. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Request from Ty Dodge and RealtySouth

Mr. Ty Dodge requested that license transfer fees be waived due to suite numbers being changed within the same location they currently occupy and that what he referred to as batch jobs be reevaluated and the cost adjusted downward. In view of the peculiar circumstances of the Administrative Office of RealtySouth and their current location, Commissioner Hays moved to waive the transfer fee. Commissioner Bragg seconded the motion and it passed 8-1 with Commissioner Whitley voting no. Given that the transfer fees are set by statute and by design are intended to be a source of revenue, Mr. Lasater was instructed to convey that aspect in correspondence to Mr. Dodge.

Consideration of Spring Meeting Location

Upon discussion of the hearings to be scheduled, a recommendation to hold upcoming meetings in Jefferson County in March, Mobile County in April, Madison County in May and Montgomery County in June was considered. Commissioner Lovejoy moved to approve the recommendation of meeting locations. Commissioner Hays seconded the motion and it passed unanimously 9-0.

There being no further business, the Commission adjourned at 3:30 p.m.

Done this 12th day of February, 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary