

MINUTES

The Alabama Real Estate Commission met Friday, May 22, 2009, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice-Chair Jewel Buford; Commissioners Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Bill Watts and Nancy Wright; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Deputy Attorney General Charles Sowell; Assistant Attorney General Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly, Phillip Bunch, and K.C. Baldwin. Hearing Officer was Tori Adams. Commissioner Bobby Hewes was absent with notice.

Other staff members present were Public Information Manager Vernita Oliver-Lane, Public Information Specialist, Lori Moneyham, Senior Accountant Molli Jones, and Assistant Information Technology Manager Brett Scott.

The meeting having been duly noticed according to the Open Meetings Act, was called to order at 9:00 a.m. by Chairman Hodges.

Commissioner Watts moved to approve the April 3, 2009 minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Executive Director Philip Lasater reported that the March financials had been posted on the Commissioner web site and the April financials were in the meeting packets. While revenues are slightly under projection, expenditures are significantly under projection with a healthy balance on investment.

Commissioner Morris gave a report from the ARELLO Mid Year meeting recently held in Asheville, North Carolina. She reported meeting with Gail Anderson from the Nevada Real Estate Commission who has experience with community associations and gained helpful insight. Commissioner Morris also reported on roundtable discussions and the technology session at the conference.

In the Executive Director's report, Mr. Lasater asked for and received Commission consensus regarding the interpretation for implementation of Act 09-0617 specifically as it applies to size of letters in advertising. The consensus was that "prominently" means that a reasonable common sense standard will be applied to questionable ads. If the name of a broker or company to which a salesperson or associate broker is affiliated can be clearly read and discerned the licensee will be considered in compliance.

Mr. Lasater then noted the new comprehensive "Deadline List" prepared by staff in response to Commissioner interest and asked how and to what extent Commissioners would direct its publication and distribution including the AREC website and made available for AREC instructor use. Commissioners expressed their desire to distribute it as widely as possible. It should be prepared as a handout for the upcoming Commission forum at AAR's summer meeting.

Commissioner Watts made a motion to adopt a resolution to express appreciation to AAR for their lobbying cooperation and assistance and legislators who played a role in the passage of HB428 and SB23. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Commissioner Hodges inquired about the use of laptops instead of paper files at Commission meetings. Mr. Sowell explained the legal limitations of using anything but a state owned laptop which could have no external connectivity or any other information on it any month except agenda packet information for that particular meeting.

Mr. Lasater prepared and distributed a memo to Commissioners regarding how Examiners recently called attention to how board and Commission action will be audited relative to a Commission's statutory ruling authority.

Chairman Hodges asked Community Association Task Force Chair Jan Morris to develop a list of bullet point topics that they will address and present these at the June Commission meeting.

Chairman Hodges recognized Commissioner Watts to introduce and welcome Morgan Smith who is currently an intern with Watts Realty.

Commissioner Morris made a motion to adopt amendments as filed to Rules 790-X-1-.07, 790-X-1-.09, 790-X-1-.12, 790-X-1-.13, 790-X-1-.14, 790-X-1-.15, 790-X-1-.17, 790-X-1-.21, 790-X-2-.02, and 790-X-2-.03 and adopt Rules 790-X-1-.06, 790-X-1-.16 and 790-X-1-.19 with amendments offered as a result of public comment. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Assistant Executive Director Patricia Anderson explained the new ARELLO cancellation policy for meeting registration and how best to implement it to insure return of registration fees to Commissioners should circumstances arise to prevent a registered attendance.

Chairman Hodges led all other Commissioners in acknowledging and congratulating Commissioner Jewel Buford on her re appointment and confirmation to a second term on the Commission.

Commissioner Watts made a motion to conduct its disciplinary hearing disposition discussions in open session. The motion was seconded by Commissioner Wright and it passed unanimously 8-0.

HEARINGS

Tiffanie Baker, Hardship Application to Obtain Original Salesperson's License After Temporary Salesperson's License Lapsed

Upon review of testimony presented by Ms. Baker regarding hardship application for an original salesperson's license, Commissioner Riggins-Allen made a motion to grant Ms. Baker a 60-day extension. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Arthur L. Cole, III

Upon discussion of the evidence and testimony presented in the matter of Arthur L. Cole, III, Qualifying Broker, Cole Properties, Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(16) in that Respondent 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; Count 2: Section 34-27-36(a)(19) and Alabama Real Estate Commission Rule 790-X-1-.17(3) in that Respondent is subject to the provisions of Section 34-27-36(a) which applies to instructors who are found guilty of any acts as set out in Section 34-27-36, Commissioner Morris made a motion to find Mr. Cole guilty on Count 1 and fine him \$500 and to find Mr. Cole guilty on Count 2 and suspend Mr. Cole's instructor approval until he completes the Commission prescribed three hour course in Risk Management. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Anthony Kimbrough Middlebrook, Application for Determination of Licensing Eligibility, I-13,031

Upon discussion of Mr. Middlebrook's eligibility for licensure, Commissioner Morris made a motion to approve Mr. Middlebrook's eligibility to apply for licensure. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Greg Urbanski, Formal Complaint No. 3141

Upon earlier request by Mr. Urbanski, this hearing was continued until a later time.

Lee Harmon, Hardship Application to Obtain Original Salesperson's License After Temporary Salesperson's License Lapsed, I-13,064

Upon discussion of Mr. Harmon's hardship request for an original salespersons license, Commissioner Morris made a motion to grant Mr. Harmon a 30-day extension. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Laurinia Parker, Application for Extension to Complete the Real Estate Pre-License Course, I-13,009

Ms. Parker did not attend the Commission meeting. Therefore her request was not considered.

Beverly Denise Lewis, Application for Determination of Licensing Eligibility, I-13,073

Upon review of the application for determination of licensing eligibility submitted by Ms. Lewis, Commissioner Buford made a motion to approve Ms. Lewis' eligibility to apply for licensure. Commissioner Morris seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Tonya Gex, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3136

Upon review of the evidence and testimony presented by Tonya R. Gex, Qualifying Broker, Mobile Bay Realty Group, LLC, Fairhope, 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, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Buford made a motion to find Ms. Gex guilty and fine her \$500. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Jason R. Grammes, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3133

Upon review of the evidence and testimony presented in the matter of Jason R. Grammes, Qualifying Broker, Titanium Realty Solutions, LLC, Birmingham, 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, 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 Mr. Grammes guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Susan Trawick, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3137

Upon review of the evidence and testimony presented in the matter of Susan Trawick, temporary salesperson, Alabama Gulf Coast, LLC, d/b/a Keller Williams Alabama Gulf Coast, Fairhope, 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, 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 Ms. Trawick guilty and fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Mickey Berry, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3138

Upon review of the evidence and testimony presented in the matter of Mickey Berry, Salesperson, Premier Alabama LLC d/b/a Keller Williams Realty, Birmingham, 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, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Buford made a motion

to find Mr. Berry guilty and fine him \$250. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Jamie Lauren Harper, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3139

Upon review of the evidence and testimony presented in the matter of Jamie Lauren Harper, temporary salesperson, Prime Realtors Alabama, LLC, d/b/a Re/Max Prime Realty, Phenix City, 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, as payment for 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 Ms. Harper guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Dawn L. Floyd, Hardship Request for Home Operation, I-13,046

Upon review of the hardship request for home operation submitted by Ms. Floyd, Commissioner Morris made a motion to deny the request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

William Donald Norman, Applicant for Determination of Licensing Eligibility, I-13,044

Upon review of the application for determination of licensing eligibility submitted by Mr. Norman, Commissioner Watts made a motion to deny the application. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Kenneth Brazzell, Request for Extension to Take Salesperson's Examination, I-13,074

Upon review of the request by Mr. Brazzell for an extension to take the salesperson's examination, Commissioner Riggins-Allen made a motion to deny the request. Commissioner Wright seconded the motion and it passed 7-1 with Commissioner Morris voting no.

Adopt the Strategic Plan

Commissioner Watts made a motion to adopt the Strategic Plan for 2009-2014 as developed by Commissioners in their planning session on April 2, 2009. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Pat E. Neely, Request to Waive Transfer Fee, I-13,078

Upon review of Mr. Neely's request for waiver of the transfer fee for moving his office location to and from a temporary address due to building damage, Commissioner Cawthon made a motion to approve Mr. Neely's request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Jay Smith, Request for Extension to Take the Salesperson's Examination, I-13,080

Upon review of Mr. Smith's request for additional time to take the salesperson's exam, Commissioner Cawthon made a motion to grant Mr. Smith a 60 day extension. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Jill Barnette, Request for Extension to Take the Salesperson's Examination, I-13,081

Upon review of Ms. Barnette's request for additional time to take the salesperson's exam, Commissioner Buford made a motion to grant Ms. Barnette a 60 day extension. Commissioner Watts seconded the motion and it passed 7-1 with Commissioner Morris voting no.

Confirm June 19, 2009 Meeting Date and Location for the Record

Commissioner Morris made a motion to confirm that next Commission meeting will be held on June 19 at 9:00 a.m. at 1201 Carmichael Way, Montgomery, Alabama. Commissioner Buford seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 11:40 a.m.

Done this 22nd day of May 2009.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary