

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

DECEMBER 19, 2006

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, December 19, 2006 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting was called to order at 8:35 a.m. by Chairman Arthur Slattery

Present: Commissioners Arthur Slattery, Pauline Ikawa and Barbara Heath, Executive Director Beth Edes, and Investigator Ann Flanagan.

- I. The Commission tabled the June 20, 2006, July 18, 2006, August 22, 2006, September 19, 2006, October 17, 2006 and November 21, 2006 Minutes due to a lack of a quorum of members present and voting to approve or disapprove.

II. APPOINTMENTS

Equivalency Appointments

The following candidate was interviewed by Commissioners Arthur Slattery, Pauline Ikawa and Barbara Heath:

CANDIDATE

DETERMINATION

MATTHEW T. JAMES

DENIED

On motion by Commissioner Slattery, seconded by Commissioner Ikawa, the Commission denied Mr. James' experience presented as equivalent experience, pursuant to RSA 331-A:10, II(c)(3).

8:40 a.m. FAITH CLARK appeared before the Commission to discuss a previous legal incident prior to applying for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Heath, seconded by Commissioner Ikawa decided to allow Ms. Clark to apply for her original salesperson's license.

8:50 a.m. JAMES M. REAGAN appeared before the Commission to discuss a previous legal incident prior to applying for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Heath, seconded by Commissioner Ikawa decided to allow Mr. Reagan to apply for his original salesperson's license.

8:55 a.m. DONALD R. TURNER appeared before the Commission to request approval as an accredited real estate instructor to teach pre-licensing education, pursuant to Rea 302.01. After review and discussion, and based on the recommendations of Fran West, the Commission's Education Assistant and evidence submitted by Mr. Turner of his previous and on-going real estate brokerage teaching and training experience, the Commission, on motion by Commissioner Heath,

seconded by Commissioner Slattery approved Mr. Turner for accreditation as a pre-licensing instructor, on the condition that he ensured the Commission that he will bring himself up-to-date educationally on subject areas that he does not currently teach in New Hampshire.

9:10 a.m. SUSANNE OLSON and RICHARD THACKSTON appeared before the Commission regarding verification of Ms. Olson's salesperson experience to qualify for a broker license. Ms. Olson explained to the Commission that she has had an active license for at least 2 years, and worked for Richard Thackston from September 2004 through December 2006. She stated that while working for Mr. Thackston, she closed 3 transactions in 2004 and 21 transactions in 2005. Mr. Thackston explained that he felt he could not certify that Ms. Olson had the salesperson experience equal to 2000 hours part-time or 1 year full time, because he did not have the sufficient evidence of her hours worked, but believed she worked an average of 16 hours per week. After review and discussion, the Commission, on motion by Commissioner Heath, seconded by Commissioner Ikawa approved Ms. Olson's experience as equivalent experience to obtain a broker's license.

III. **HEARING 10:30 AM**

FILE NO. 2006-017 CARLOS & KATHERINE MOREIRA VS DALE S. ROBINSON

Due to the sudden illness of a commission member, the hearing was continued there being a lack of a quorum of Commission members present to hear the case.

IV. **HEARING 12:00 PM**

FILE NO. 2006-001 NEW HAMPSHIRE REAL ESTATE COMMISSION VS ALLAN COLE

Due to the sudden illness of a commission member, the hearing was continued there being a lack of a quorum of Commission members present to hear the case.

V. **DISCUSSION**

FILE NO. 2006-017 CARLOS & KATHERINE MOREIRA VS DALE S. ROBINSON – Attorney R. James Steiner, on behalf of the Respondent submitted an Emergency Motion to Continue the hearing which was scheduled at 10:30 a.m. Carlos & Katherine Moreira appeared at the meeting to present the Commissioners with an Objection to the Emergency Motion to Continue. The Commission tabled any decision on the Motion due to a lack of a quorum present. Commissioner Slattery was the evaluating commissioner and is recused from any discussions or decisions of File No. 2006-017.

RECIPROCITY – The Commission's Executive Director updated the Commission on the Vermont Real Estate Commission's requirements for licensure. At the November meeting the Executive Director stated that it was unclear whether a licensee from New Hampshire who obtained a license prior to New Hampshire's 40 pre-licensing requirement would be required to show proof of a 40 hour pre-licensing course to the Vermont Real Estate Commission to qualify for a license. A representative of the Vermont Real Estate Commission stated that if New Hampshire allowed the licensee to retain a New Hampshire license without proof of completion of a 40 hour pre-licensing

course when the requirement went into effect, the Vermont Real Estate Commission would not require that licensee to provide proof of a 40 hour pre-licensing course when applying for a license.

2006 INSTRUCTOR'S WORKSHOP ABSENTEE LIST – The Commission's Education Assistant presented explanations submitted by instructors who were not in attendance for portions of the 2006 Annual Instructor's Workshop. After review and discussion, the Commission unanimously decided to require the following instructors to attend a Commission hearing prior to the next annual instructor's workshop in order to be accredited for the following year:

RICHARD BOIRE
STEVEN SLOVENSKI

HUNGRYAGENTS.COM – The Commission at its August meeting discussed an inquiry submitted by Darlene Crane as to whether Best Listing Bid, LLC or HungryAgents.com was allowed to receive a fee from a real estate agent after the sale of the property. The Commission at the August meeting determined that HungryAgents.com was not licensed in the State of New Hampshire and requested the Commission's Investigator to look into the matter to determine if Best Listing Bid, LLC and HungryAgents.com is in compliance with RSA 331-A:26, XXIV. The Investigator presented evidence that Best Listing Bid, LLC was a licensed firm in the State of Missouri, but did not receive evidence that HungryAgents.com is licensed. The Commission's Investigator to request evidence of licensure of HungryAgents.com

FILE NO. 2006-027 – Attorney David C. Dunn, on behalf of the Complainants of File No. 2006-027 submitted a request for withdrawal of the complaint, due to the resolution of the dispute between the parties of the complaint. The Commission tabled its decision on the matter until the complaint file is reviewed by a Commission member.

JACK MURRAY, a licensed salesperson submitted a request for Commission interpretation regarding activities permissible apart from his association as a salesperson with his principal broker's real estate agency. Mr. Murray requested a clarification to the following questions:

1. Does the State of New Hampshire require any state licenses for an individual engaged in the business of property consulting/advising in matters of real estate?
2. Can a management fee be based on a % (percent) of the actual selling price?
3. I was involved in a closing representing the buyer and the initial HUD statement showed a 5% commission which was split evenly between Prudential Rush Realty and the listing agents firm. The day of closing, the HUD statement was modified and a management fee was applied (debit) against the Sellers proceeds which was equivalent to two (2%) of the selling price payable to the listing agent's firm. Is this OK?

After review and discussion, the Commission directed the Executive Director to notify Mr. Murray that his questions do not fall under the jurisdiction of the Commission and that he should seek legal advice. Mr. Murray to be so notified.

VI. FINAL APPROVAL OF RULEMAKING PROPOSALS

After review and discussion, the Commission made amendments to the initial proposals based on oral and written testimony received by the public and written comments received from the Office of Legislative Services. The Commission unanimously approved the amended rule proposals as final and directed the Executive Director to submit them to the Office of Legislative Services for adoption.

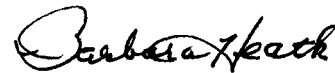
VII. OTHER BUSINESS

1. The Commission did not approve a date for the next regularly scheduled meeting.
2. CASE EVALUATIONS - None

VIII. ADJOURNMENT

Motion by Commissioner Ikawa, seconded by Commissioner Heath to adjourn the meeting. Commissioner Slattery adjourned the meeting at 12.35 p.m.

Respectfully submitted,



Barbara H. Heath
Clerk