

Office of Professional Regulation
Real Estate Commission
Corner of State and Main in the City Center
89 Main Street
3rd Floor
Montpelier, VT 05602

Minutes
January 22, 2015

Commission Members and Staff Present: Claire Porter, Donna Murray, Wendy Beach, Gloria Rice, Michelle Gosselin, David Raphael, Gabriel Gilman and Judith Griffen. **Public members Present:** Dennis Brown, Randy Mayhew, Helen Hossley, Nicole Senecal, Betty McEnaney, Tom Heilmann, and Teresa Merelman

1. 8:30 Education Committee

2. 9:20 Commission Meeting - Call to Order

Introduction of new Commissioners and Board Counsel

Commissioner Raphael welcomed and introduced the two new members appointed by the Governor, Donna Murray from Manchester and Wendy Beach from Vergennes/Basin Harbor. Gabriel Gilman, formerly a State Prosecutor for the OPR, was introduced as the new General Counsel for the Commission and several other professions.

3. 9:23 Approved December 18, 2014 minutes

4. 9:25 Case Manager's Report

There are sixty-five (65) open cases at this time. Eighteen (18) are pending I-Team meetings, nine (9) are on hold, fourteen (14) are under investigation, fifteen (15) are pending charges, seven (7) are pending hearings and two (2) are in the intake process.

Number of Active Licensees as of January 14, 2015

Brokers:	1013
Salespersons:	1041
Brokerage Firms - Main Offices:	553
Brokerage Firms - Branch Offices:	75

5. 9:30 Disciplinary Actions – Hearings/Dismissals/Stipulations:

a. 2014-362, 2014-363 2014-589 – Stipulation and Consent Order
Carolyn Umlauf, Paul A. Harsch III, & Harsch Properties Inc.

The Commission held a hearing and took testimony and voted to accept the Stipulation and Consent Order in the above cases.

b. 2013-736, 2013-737 – Stipulation and Consent Order
Jeffrey M. Biasuzzi, Northeast Land and Trading Co., Ltd.

The Commission held a hearing and took testimony and voted to accept the Stipulation and Consent Order in the above cases.

6. 9:45 Old Business:

a. Agency Workgroup update

The Workgroup continues its work on the draft language, focusing on making sure the two models of agency outlined in the administrative rules are clear and separate. A meeting today will resume that work and the two new members of the Commission were encouraged to attend.

b. Inspection Program

Dennis Brown reported to the Commission that he has been on two inspections with Robin Jacobs and is planning one with Liz Merrill in the coming weeks before starting on his own. He said the process is going well. Raphael reported that he is expecting Liz to send out the first batch of sign letters any day.

c. OPR Board Member Retreat

The Commission was reminded of the OPR retreat tomorrow, starting at 8:30 AM.

d. 2015 Calendar, Initiatives, and Priorities

The Commission was provided another copy of the draft from the strategic planning session. Items will continue to be prioritized in the coming couple of months as changes within OPR are completed.

7. 10:00 New Business:

a. Election for open Officer positions

A motion was made and seconded to elect Gloria Rice as Vice-Chair and Michelle Gosselin as Secretary for the Commission. The motion passed.

b. Vacancies on Education Committee and Agency Workgroup

A brief discussion occurred regarding the vacancies. Donna Murray expressed a desire to serve on the Agency Workgroup and Wendy Beach on the Education Committee.

c. Presiding Officer and Hearings

A discussion was introduced by Commissioner Raphael regarding the role of presiding officers in disciplinary hearings and the difficulties in avoiding conflicts of interest with the prosecutorial side of OPR as well as the increased demand on board counsel's time in writing findings of fact and decisions. He also noted that hearings take away from the Commission's ability to focus on advancing strategic initiatives and the work at hand. He outlined other models and asked Gabe Gilman to review the options available to the Commission.

Gabe Gilman outlined one option of appointing a presiding officer who would come in to preside over cases, charging the Commission based on cases and time spent. The other option, which many of the advisory professions currently employ, is the ability for the Commission to authorize the appointment of an hearing officer to preside and adjudicate over cases, reporting back to the Commission. He read from State Statute on the enabling language that gives the Commission authority to do this:

(f) A board may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing which would otherwise be heard by the board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing. When a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

The Commission agreed that with the ability to remain in the process and have the ultimate decision making authority, it would be a better use of time and process.

A motion was made and seconded that the Real Estate Commission move to a model of delegating authority to the docket clerk to appoint a hearing officer for the presiding over and adjudication of cases and disciplinary matters pursuant to 3 V.S.A §129(f) The motion passed with one abstention.

8. Public Comment

Randy Mayhew noted the Consumer Information Disclosure that is referenced and linked in the Administrative Rules appears to be missing from the Commission's website. He mentioned that licensees are encouraged to visit the site to obtain the language recommended by the Commission. The Commission agreed to look into the matter and make sure the document was once again available.

Teresa Merelman requested a copy of the Commission's meeting calendar for 2015.

9. Adjournment

Next Scheduled Meeting – February 26, 2015

The "Agency Workgroup" will hold its meeting on January 22, 2015 following the full Commission meeting.

Real Estate Education Committee
Courses for review

Provider/Title	Requested # of Hours	Renewal?	Approved	Approved # of Hours	Denied	Comments
Continuing Ed Express LLC						
1. BPO Simplified	3	No	Tabled			Course content was not available online
2. REO Simplified	3	No	Tabled			Course content was not available online
National Business Institute (NBI)						
3. Advanced Issues in Real Estate Law	6	No	Yes	4		
Randy Mayhew School of Real Estate						
4. Buyer Cancellation Rights & Seller Agent's Best Practices	4	No	Yes	4		2hrs – Post-licensure
Curtis Trousdale (individual request)						
5. Vermont Land Use	7.5	No	Yes	4		
International Association of Certified Home Inspectors						
6. Saving Home Energy for Real Estate Professionals	3	No	Yes	2		
7. Home Energy Score for Real Estate Professionals	2	No	Yes	2		
Mike Burak (individual request)						
8. Several Courses	8	No	Yes	8 hours only		Post-Licensure***

***Of the courses submitted, the following can be counted toward the 8 hours of required post-licensure education:

Title:	Hrs of Post-Licensure
Fair Housing Review and Practice Issues	4
CRS:204 Buying and Selling Income Property	4
Client Negotiations	2

Courses used to satisfy the post-licensure education requirement may not be counted toward the continuing education requirements for license renewal.