

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
October 22, 2015

Commission Members and Staff Present: Claire Porter, Gloria Rice, David Raphael, Donna Murray, Joyce Cameron, Mikail Stein, Wendy Beach, Larry Novins, Lora Nielsen, Hollis Easter, Diane LaFaille. **Public Members Present:** Randy Mayhew, Teresa Merelman, Betty McEnaney, Dennis Brown, Annemarie Daniels, Helen Hossley., Isaac Chavez, David Aman, Phyllis Morris, Lori Holt, Gail Childs, Matt DePrizio, and Rosemary Gingue.

1. 8:30 Education Committee

2. 9:15 Commission Meeting

Commissioner Raphael introduced Lora Nielsen, Assistant Director, and Hollis Easter, Business Process Manager, and Diane LaFaille, Licensing Specialist covering for Judith this meeting.

3. Approved September 24, 2015 Minutes

4. Case Manager's Report

There are sixty-two (62) open cases at this time. Eleven (11) are pending I-Team meetings, two (2) are new and in the intake process, twenty-five (25) are under investigation, one (1) is awaiting response, three (3) are pending charges, nine (9) are pending closing reports, and eleven (11) are pending hearings.

Commissioner Cameron asked for a status on tracking cases by type, as had been discussed in the past. Carla Preston indicated that there isn't an easy way to accomplish this presently. The Commission discussed the RFP that is in place to replace OPR's current technology system. There will be increased flexibility with the new system.

Number of Active Licensees as of October 14, 2015

Brokers:	1047
Salespersons:	1128
Brokerage Firms - Main Offices:	564
Brokerage Firms - Branch Offices:	77

5. 9:30 Disciplinary Procedures: Hearings/Dismissals/Stipulations

Prior to conducting the hearings, Board Counsel, Larry Novins, reminded the Commission that as a result of its delegation to Administrative Law Officers for hearings on disciplinary matters, today is the first instance of a decision coming back to the Commission for action. He noted that the Commission has several options for the matter before the Commission today.

The Commission can accept the "Findings of Fact, Conclusions of Law, and Proposed Default Order" as is or can modify the order. The Commission can reject it and send it back and request more specific findings of fact and conclusions of law or changes to the order. And finally, the Commission can vote to have the matter come back to the full Commission for a hearing.

The Commission was reminded of their ability to use a deliberative session to hold discussion.

a. 2014-532 – Nicholas R. Lizotte – Hearing

This case was continued at the request of the State Prosecutor, Elizabeth Jarvis.

b. 2013-659 Victoria Lehman – Default Order

2013-660 NeighborCity

2013-661 American Home Realty Network

The Commission voted to adopt the “Findings of Fact, Conclusions of Law, and Proposed Default Order” as presented.

6. **Old Business:**

a. Inspectors and sign/advertising violations

See below.

b. 2015 Calendar, Initiatives, and Priorities

- Agency and the Mandatory Consumer Information Disclosure - completing the draft Administrative Rules

The LCAR hearing is at 10:45 AM, after the full Commission meeting. If approved, the administrative rules will be filed next week with an effective date of December 1, 2015.

- Education Process - completing policy and moving to a contracted position for review

The Education Committee reported that as part of their meeting, they discussed working on the education submittal forms and electronic submissions. Larry Novins recommended that the Education Committee submit their results to the full Commission for approval.

- Inspection Program - focus on "notice of violation" process

The Commission was sent a copy of the e-mail from Attorney Gilman to the inspectors as well as the sign/advertising violation letter. The challenges within the inspection program were discussed briefly, most notably the issues with having a program that is outside of the current enforcement division of OPR.

The Commission was asked to review the statutes governing our profession for the next meeting, specifically Title 26, chapter 41. <http://legislature.vermont.gov/statutes/chapter/26/041> Larry Novins indicated that he too would like time to come up to speed on the issues.

c. AMP test review for pending Administrative Rules changes

Commissioner Raphael reported that the test question review was progressing. He noted that new questions are needed for the new administrative rule content.

d. Licensee ability to transition from a Broker back to a Salesperson

The Commission had a brief discussion on the inquiry by a licensee, at the September meeting, regarding the ability for a broker to go back to a salesperson license. There was consensus that this should be allowed without having to requalify for the salesperson requirements. There was also consensus that to then go back to being a broker at a later date would require meeting the current licensure qualifications.

Gail Childs raised the issues about whether the increased broker education was driving this. Annemarie Daniels noted that the Commission should be focused on a way to accommodate a licensee's desire to go back to a salesperson and not on their reasoning. She noted that there exists a lot of reasons for someone not wanting to keep a broker's license.

A motion was made, seconded, and approved to direct the office to look into the logistics of transitioning a broker license back to a salesperson license and what steps would be required.

7. New Business:

a. Administrative Rules and next steps

The Commission had a brief discussion on requests from licensees to develop an FAQ around the new designated agency rules. Agency Workgroup members in attendance agreed that licensees are looking for some insight and reminded the Commission that everyone involved has the benefit of three years of understanding the “intent” of the rules. It was noted that New Hampshire developed a detailed FAQ and this was met with success.

A motion was made, seconded, and approved to direct the Agency Workgroup to work on an FAQ document around new rules.

Larry Novins noted that the Commission received a comment on the draft Administrative Rules rule 2.5(c). At issue was the addition of the word “pre-existing.” The comment from Senator White was that this term could encompass too much time in the past. Attorney Novins suggested replacing the word “pre-existing” with “contemporaneous” to meet the Commission’s goal of making sure the business relationship was not in existence at the time of a qualifying transaction.

A motion was made, seconded, and approved to replace the word “pre-existing” with “contemporaneous” in rule 2.5(c).

8. Public Comment

Teresa Merelman asked how everyone would know when the new rules would go into effect. Commissioner Raphael noted that the anticipated effective date would be December 1, 2015 and he committed to making sure the dates and timing were communicated.

9. Adjournment

Next Scheduled Meeting – November 19, 2015

Real Estate Education Committee

Courses for review

Provider/Title	Requested # of Hours	Renewal?	Approved	Approved # of Hours	Denied	Comments
NH Association of Realtors						
1. Real Estate & Ethics – The only Way to Conduct Business	4	No				Tabled – no materials from staff
McKissock LP						
2. The New FHA Handbook for Real Estate Professionals	4	No				Tabled – no materials from staff
3. Technology, Relationships and the Digital Consumer	4	No	Yes	3		
Vermont Realtors						
4. NAR Code of Ethics	3	Yes	Yes	3/2		2 hrs post-licensure
5. NAR Safety Matters: Safe Business = Smart Business	3	No	Yes	3/2		2 hrs post-licensure
Jonathan D. Weidman Esq						
6. Easements & Right of Way “ Law School for Realtors”	3	No	Yes	2		
McKissock LP						
7. 2014-2106 Renewal Cycle – Mandatory Course	4	No				**tabled (see below)
8. Know the Code: Your Guide to the Code of Ethics	3	No	Yes	3/2		2 hrs post-licensure
9. Fair Housing	4	Yes	Yes	4/2		2 hrs post-licensure
10. Preparing a Listing Agreement an in Depth Look	4	No				*** Denied (see below)
The American CE Institute						
11. The Purchase Reverse Mortgage	3	No	Yes	2		
Time Permitting						
Vermont Realtors						
12. Getting to the Heart of the Transaction	2/2	No	Yes	2/2		2 hrs post-licensure
13. VT Real Estate Law Day 2015	3/3	No	Yes	2/2		2 hrs post-licensure
14. VT Shoreland Protection Act	2/2	No	Yes	2/2		2 hrs post-licensure
Northwestern Vermont Board of Realtors						
15. Getting Your Listings Priced Right	3/3	No	Yes	3/2		2 hrs post-licensure

Real Estate Education Committee
Courses for review

** Only 200 minutes on the timed outline. This must be at least 240 minutes. This course was not available on-line.

*** This is the second time this course has not been made available on-line for review.

The Education Committee requested that a column be added to the table for the number of previously approved CE hours for courses seeking renewal.