



Oregon

Theodore R. Kulongoski, Governor

Real Estate Agency

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State of Oregon Real Estate Agency

REAL ESTATE BOARD

Regular Meeting Minutes

April 16, 2007

- MEMBERS PRESENT:** Michael Graeper, Chair
Troy Costales, Vice-Chair
Victor Kee
Arthur Kegler
Robert LaDu
Marianne Wood
John Zupan
- MEMBERS ABSENT:** Maxine Ribera-Card
- STAFF PRESENT:** Katie Cannon, Acting Commissioner
Laurie Skillman, Land Development Manager
Louann Rahmig, Board Liaison
Mesheal Heyman, Education Coordinator
- GUESTS PRESENT:** Harlow Spaan, onlineEd
Jeff Sorg, onlineEd
Steve Planchon
Terri White
Gene Bentley
Andrea Bushnell, Oregon Association of Realtors (OAR)
Jana Jarvis, OAR
Michaelle Clarke, Homestead Realty
Emily Cedarleaf, Multifamily Housing Council of Oregon

I. BOARD BUSINESS

- A. Call to Order.** Chair Graeper called the meeting to order at 10:03 a.m. at the Real Estate Agency office at 1177 Center Street NE, Salem OR.
- B. Roll Call.** Maxine Ribera-Card was excused due to illness.
- C. Approval of the Agenda and Order of Business.** The agenda was approved as submitted.

D. Approval of the February 12, 2007, regular meeting minutes. The Chair pointed out a typo on page 5 to change “fells” to “feels.” “Realtor” needs to be capitalized on page 7. The minutes were approved as corrected.

E. Date of the Next Meeting. June 18, 2007, in Salem

II. PUBLIC COMMENT. Harlow Spaan, onlineEd. He described the company’s work and spoke about a conflict between Association of Real Estate License Law Officials (ARELLO) and agency guidelines for distance learning. He requested that the board refer to the education subcommittee for recommendation to the commissioner, the proposed rewording of the guidelines for distance learning (**EXHIBIT A**). The Chair will pass the recommendation on to the education committees. Troy Costales asked if instead of deleting certain paragraphs if there are ways in a distance learning program to make accommodations. Art Kegler asked Mr. Spaan to comment on paragraph VIII.B.6. The ARELLO standards are quite high. He commented on exam integrity and identification beyond the proctor system.

III. REQUESTS FOR WAIVERS

A. Waiver request log. No discussion.

B. Experience Requirement Waiver Request. The number of transactions and the date licensed will be added to the form. A list of transactions would be other helpful information.

C. Michaele L. Clarke requested a partial experience requirement waiver for a broker sole practitioner license. Ms. Clarke appeared. Marianne Wood looked for evidence that there was experience or education that could be substituted for the requirements asking to be waived. Mr. Kegler requested the number of transactions completed in her 1-1/2 years. Ms. Clarke responded 17. Mr. Kegler asked if Ms. Clarke can ask for another waiver to become principal broker prior to completing the three years experience needed. The response was yes. The Chair pointed out that the “OAR” license number is actually the agency license number. John Zupan noted the lack of college education in real estate or experience in real estate.

MOTION BY ART KEGLER TO APPROVE THE WAIVER REQUEST FOR SOLE PRACTITIONER. Discussion. Victor Kee asked about the types of property in the 17 transactions. Ms. Clarke responded a mix, but more residential lately.

Vote: Aye – Zupan, LaDu, Kee, Wood, Kegler
Nay – Costales

MOTION CARRIED.

D. Stephen Clifford Planchon requested experience requirement waiver for a broker sole practitioner license. Mr. Planchon appeared. He has a consulting firm but has not bought or sold real estate. The type of work performed is covered by

Oregon real estate laws. He has extensive experience and recently moved from Alaska. Chair Graeper asked what is being done under the real estate statutes. Mr. Planchon responded “anything engaged in for another and for compensation with the intention or expectation of collecting revenues.” The three years experience under a principal broker would be difficult to obtain as there are not many who do this type of work. Mr. Costales was puzzled about the reason a sole practitioner license was needed. The Chair responded a professional real estate license is needed if an individual is going to negotiate, advise, counsel, consult or analyzes in connection with acquisition or sale. Mr. Planchon offered that this is not required in Alaska. Mr. Zupan indicated that the board needs to determine if the work in Alaska was the same as it would be in Oregon. Bob LaDu questioned if a waiver was granted if there is any way of monitoring this type of activity. Laurie Skillman pointed out that a limited license can be issued only when a license has been revoked or suspended, not as an “initial” license. Chair Graeper expressed concern about areas in which Mr. Planchon is not an expert. Mr. Planchon responded that in addition to his work in Alaska, he worked for the City of Portland on a program for possible purchase of homes under the tram. Mr. Kegler expressed confidence in Mr. Planchon’s capabilities in his field but questioned his ability to write real estate transactions. Mr. Planchon responded that his business is consulting on land and natural resources. He is aware that he could lose his license if he fails to perform legally.

Ms. Wood stated that it is clear that Mr. Planchon is competent in a narrow field. The board, in making decisions, sets precedence. She cited the administrative rule guidelines in granting waivers. Mr. Planchon further detailed his role in previous transactions that were similar to real estate transactions.

MOTION BY BOB LADU TO APPROVE THE WAIVER REQUEST FOR SOLE PRACTITIONER. Discussion. Mr. Zupan asked if he has negotiated home sales and, if so, how many. Mr. Planchon responded, three parcels in Alaska and 12 offers in the City of Portland, preparing all the documents which were submitted to the city.

MOTION CARRIED UNANIMOUSLY.

E. Theresa Diane White requested experience requirement waiver for a broker sole practitioner license. Ms. White appeared. She has had difficulty obtaining experience verification from the state of Utah; however, the broker has verified. Ms. Wood asked about tenant-in-common real estate experience. Ms. White responded that this involves fractional interest in buildings and shopping centers. Ms. Wood asked for more information about the number of transactions and for an explanation of the types. Ms. White wants to be able to make presentations at marketing sessions.

MOTION BY VICTOR KEE TO APPROVE THE WAIVER REQUEST FOR SOLE PRACTITIONER. Discussion: Mr. Zupan feels that approval should be subject to verification by Washington and Utah.

AMENDMENT TO THE MOTION BY JOHN ZUPAN THAT EXPERIENCE IN WASHINGTON AND UTAH BROKER LETTER BE VERIFIED BY THE AGENCY.

AMENDMENT APPROVED UNANIMOUSLY.

MOTION AS AMENDED CARRIED UNANIMOUSLY.

IV. BOARD ADVICE/ACTION

- A. Approve temporary licensing rules for permanent rulemaking. Appoint one board member to participate on rulemaking committee.** Bob LaDu volunteered to participate.

MOTION BY MARIANNE WOOD TO APPROVE TEMPORARY LICENSING RULES AND TEMPORARY ADVERTISING RULES FOR PERMANENT RULEMAKING. No discussion.

MOTION CARRIED UNANIMOUSLY.

- B. Brokers' initials on transaction documents.** Chair Graeper advised that this item resulted from an e-mail from Curtis Irving. OAR 863-015-0140(6) states the document is to be initialed and dated (**EXHIBIT B**). Mr. Zupan commented that an office policy could establish additional procedures. Mr. Kegler agreed. Ms. Cannon referred to the rule which does not require initialing every page. Ms. Wood commented that most companies are moving to e-documents. Mr. Costales commented that other professionals (engineers) have to sign documents or apply a seal. Ms. Cannon advised the board that the agency will be doing a complete review of all agency rules and this can be reviewed at that time. The Chair added that new licensees should have all their documents reviewed and suggested a survey of licensees to get their feeling about initialing documents. Ms. Cannon was asked to send a letter to Curtis Irving pointing out the rule language.

John Zupan raised a concern about SB 324 addendums that no one has seen. The board wasn't consulted, and although we are an advisory board, it is hard to give advice when we are not involved in discussions. He suggested the board write a letter to the Governor expressing concerns on issues that would affect the agency.

Art Kegler asked Ms Cannon why the amendments were not shared with the board. Ms. Cannon responded that there were discussions between the Governor and Senator Johnson and they own the amendments. We don't own the amendments. As reported in front of the Legislative Committee, it would have been inappropriate for me to disclose what was in them. That's a choice between Senator Johnson and the Governor.

Mr. Zupan reiterated that is why a letter should be written to the Governor to let him know the board would like to be involved in any negotiations that are going on that affects this board and this agency. Mr. Kegler agreed.

MOTION BY ART KEGLER TO WRITE A LETTER TO THE GOVERNOR STATING THAT THE BOARD WANTS TO BE INCLUDED IN MATTERS CONCERNING THE AGENCY. Discussion. Chair Graeper assumed he was to write the letter to the Governor on behalf of the board, if this motion so passes. Mr. LaDu suggested the letter be addressed to both Senator Johnson and the Governor. Representative Esquivel should also be included.

Mr. Costales advised that amendments to bills are attorney/client privilege because they are written on behalf of a legislator or the Governor. Some things are not public until the “owner” chooses to release the information. The originator of the request could share with other individuals or give the lawyer direction to share or get advice from others. Timing is key. He stated that the board should offer to help to provide input/advice.

Mr. Kegler added that the Department of Administrative Services report said the board should be more involved. The interim task force spent a lot of time and travel around the state to listen to suggestions to bring this bill forward. .

Ms. Cannon indicated that she was surprised to find out the bill was not moving forward. She couldn't answer whether the board would get a copy of the amendments since she was not sure they were ever completed.

MOTION CARRIED UNANIMOUSLY.

V. NEW BUSINESS

A. Discuss permanent rulemaking for advertising rule (OAR 863-015-0125).

Approved under Agenda Item IV.A.

B. Future topics for discussion. Referring to Mr. Planchon's unique area of real estate activity, Mr. Costales asked about the number of people doing the same type of work and if this is an area to pursue. Ms. Cannon discussed SB 449 which talks about tenants in common and investments. There may be some confusion on which license is needed. The agency has not taken a position on the bill but wants the licensees to know which area they are in. Laurie Skillman described what SB 449 does. Jana Jarvis, Oregon Association of Realtors (OAR), indicated that SB 449 was an OAR bill. Mr. Zupan felt the board should take a position on the bill. Ms. Cannon indicated that the bill is more a securities issue than real estate. Mr. Kegler understood the bill ties the real estate factors to management and away from securities. Ms. Jarvis responded that the original intent was to create definitions. Dialogue is continuing.

VI. COMMUNICATIONS

- A. **Administrative Actions Summary.** Report included in board packet. No discussion.
- B. **Letter of appreciation from Joe Briscoe.** Letter included in board packet. No discussion.
- C. **Copy of letter to Max Smith.** Chair Graeper reminded the board that Mr. Smith expressed concerns about sales concessions. He reported on a meeting with an appraiser's board member and the executive director. Ms. Cannon added that the appraiser's board was going to consider future legislation as more people need to participate in the discussions.
- D. **Feedback on Chair Graeper's OREN-J article.** *See discussion under Agenda Item VII.B.*

VII. REPORTS

A. Acting Commissioner Katie Cannon

1. **Status of recruitments for vacant positions.** The last two positions in the Regulations Section have been filled. All positions are now filled except for the Administrative Services 1 in land development/board support.
2. **Report of hits on the OREN-J on the agency Web site.** The report was in the board packet. Ms. Cannon added that a survey of those renewing licenses online is being conducted, which includes a question about what other online services is wanted in the future.
3. **Comparison between waivers granted and compliance actions.** The report was in the board packet. Ms. Cannon looked at the waiver requests for the last 10 years. There were 113 requests, 64 of which were approved. Of the 64, only four received some form of educational letter or disciplinary action.
4. **2007 Legislative report.** Ms. Cannon reported that HB 2545, which would have required the agency to handle all mediation services and caused a significant fiscal impact, appears to not be going anywhere. HB 2252, the background check bill for employees, has passed the House. Mr. Costales added that by April 20 any bill with a fiscal impact must be filed and must be out of the originating committee by April 27.
5. **Report on 2007-09 agency budget.** The public hearing and work session should be around the first of May.
6. **Comparison of task force recommendations and SB 324 (crosswalk).** Mr. Costales requested this at the last meeting.
7. **Online licensing update.** The agency started online licensing the last week in March. To date, 128 have renewed online. The survey feedback has been good.

A question was raised by a principal broker about verification of continuing education. Ms. Cannon advised that a reminder will be issued to obtain approval of the 30 hours continuing education before renewal.

- 8. New licensing forms for broker transfers.** The forms were in the packet. No discussion.

- B. Chair Michael Graeper report on the Education Work Group.** The Chair referred to the e-mails in the packet and distributed another (**EXHIBIT C**). The board's committee is "on hold" until the OAR work group has met. Then there will probably be a joint meeting.

- C. Board Member Maxine Ribera-Card report on the Property Management Education/Exam Work Group.** Ms. Ribera-Card was not available to report, but there will likely be one more meeting.

- D. Ancillary responsibilities discussion item – timeshares, campgrounds and subdivisions.** Laurie Skillman distributed the latest version of the agency's administrative rules including all the latest filings (**EXHIBIT D**). Ms. Cannon distributed a one-page guide to statutes and rules (**EXHIBIT E**). Ms. Skillman explained that in addition to condominiums, the agency has authority over timeshares, out-of-state subdivisions, membership campgrounds and real estate marketing organization (REMO) licenses. REMO licensees are required to post a \$35,000 surety bond even though they do not handle money. Membership campground operators are licensed. She distributed a graph showing the condominium review workload (**EXHIBIT F**). The Chair commented that it seems appropriate these items remain under the Real Estate Agency. Ms. Wood asked where they would go if removed from the agency. Ms. Cannon responded that some suggestions included having Building Codes Division handle condominiums.

- E. Demonstration of FAQ's.** Mesheal Heyman distributed a list of the education functions (**EXHIBIT G**). The FAQ demonstration will be done in conjunction with the tour of the Education Section following the board meeting.

VIII. ANNOUNCEMENTS

Tour of Education Section for board members immediately following the meeting.

The Chair presented acting commissioner Katie Cannon with a token of appreciation for her role as acting commissioner.

The August 20, 2007, REA Board meeting will be in Astoria.

IX. ADJOURNMENT

Chair Graeper adjourned the meeting at 12:45p.m.

Respectfully submitted:

/s/ Katie Cannon

KATIE CANNON
ACTING COMMISSIONER

Respectfully submitted:

/s/ Michael R. Graeper

MICHAEL R. GRAEPER
BOARD CHAIR

Exhibits distributed:

- A. Proposed Policy Guidelines for Distance Education Formats, submitted by Harlow Spaan
- B. OAR 863-015-0140(6), **Agenda Item IV.B.**
- C. E-mail from Bob & Sue Frazier, **Agenda Item VII.B.**
- D. OAR chapter 863 administrative rules, **Agenda Item VII.D.**
- E. Guide to agency statutes and rules, **Agenda Item VII.D.**
- F. Graph of Condominium Reviews Per Month, **Agenda Item VII.D.**
- G. Education Functions, **Agenda Item VII.E.**