



Oregon

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OREGON REAL ESTATE BOARD

Regular Draft Meeting Minutes

Monday, April 11, 2011

Oregon Real Estate Agency

1177 Center Street NE

Salem, OR 97301

I. BOARD BUSINESS

- A. Call to Order. Chair Kegler called the meeting to order at 10:00 a.m.
- B. Roll Call. All members present with the exception of Chris Hermanski and Kimberly Medford, who were both excused. Joann Hansen left at 1:10 p.m.
- C. Approval of the Agenda and Order of Business. Approved as submitted
- D. Approval of February 11, 2011, regular meeting minutes. Approved as submitted.
- E. Date of the Next Meeting: June 6, 2011, in Medford, Oregon. Location to be announced at a later date.

II. PUBLIC COMMENT. None.

III. BOARD ADVICE/ACTION

- A. Request for Waivers – Waiver request log. None.
- B. Petitions to Qualify as Continuing Education Provider – Petition Log.
 1. SERVPRO of Salem West, Lincoln & Polk Counties (Stephen Yerger). Mr. Yerger appeared and stated that SERVPRO has been providing continuing education for the insurance industry, property managers, and realtors for years. He also indicated for logistical and coordinating purposes, it would be more effective for SERVPRO to become a certified continuing education provider.

MOTION BY BYRON HENDRICKS TO APPROVE PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER.

MOTION CARRIED BY UNANIMOUS VOTE.

2. Mitch Wilcox. Mr. Wilcox appeared and stated that he has been providing continuing education to the real estate and financial community for the last 30 years. He indicated that he teaches an eight-hour course that covers the entire lending process. Chair Kegler asked Mr. Wilcox if the application he completed clarified the difference between a continuing education provider and an instructor and Mr. Wilcox responded that the application did clarify the difference. Marcia Edwards asked Mr. Wilcox what his



conduit has been to get access to the realtors and also how he markets his services. Mr. Wilcox responded that over the years he has built a significant database and he markets certain information on a daily basis and timely or topical information on a periodical basis to approximately seven or eight hundred real estate brokers. He also stated that he presents primarily to local title companies. Bob LeFeber asked Mr. Wilcox if he instructs as an employee of the bank and he responded that although he is employed by the bank, he has applied to be a certified provider as an individual. Ms. Edwards asked Mr. Wilcox if a denial of his petition would challenge his access and he responded that limited access is a concern to him. Mr. LeFeber asked Chair Kegler if it was appropriate for the board to approve individual petitioners. Mr. Bentley responded that the board is responsible for setting the standards.

MOTION BY BYRON HENDRICKS TO DENY PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER.

Discussion: Mr. Hendricks stated Mr. Wilcox does have the ability to provide continuing education to the real estate industry; however, his motion was based on consistency due to past denials of individual petitioners. George Slape suggested that Mr. Wilcox consider having the bank submit a petition. Mr. LeFeber does not support the motion to deny Mr. Wilcox's petition based on the length of time he has been involved in the lending business and the lending process being one of his course topics. Ms. Edwards inquired as to the process of entities notifying the agency of any changes. Ms. Harrison responded there is a change of information form available on the agency website that would need to be completed and submitted to the agency.

MOTION CARRIED BY 4 AYES (Lee Dunn, Marcia Edwards, Byron Hendricks, and Art Kegler) AND 3 NAYS (Joann Hansen, Bob LeFeber, and George Slape).

3. Michelle Myhrvold Roy. Ms. Roy appeared and stated she has been teaching finance classes to the real estate community in Oregon, Washington, Idaho, Northern California, and Nevada for 26 years through two education companies out of California as well as Pro-Schools and was the only licensed person in Oregon to teach a live class for the initial 20-hour education requirement for mortgage brokers. She addressed the board's primary concern on record keeping through an individual rather than an entity and stated that the feedback she has received from title companies is that they do not want to certify any instructors who are outside of their education platform. She also explained her intended process for record keeping would be to have the certificates and the ~~information all compiled electronically, manually and retained for the~~ required length of time. Ms. Roy indicated that she previously held a mortgage broker license and has the retained loan records available for inspection. Marcia Edwards asked Ms. Roy if she has approached the local board associations and Ms. Roy responded that she has had communication with local associations and the preference is to have speakers who have their own provider. George Slape spoke about the title companies preferred speaker being someone who brings content that meets the requirements of continuing education and clarified that title companies cannot co-sponsor events due to trade practice rules through the insurance division. Ms. Edwards clarified that the petition process is

not intended to eliminate access or endorse provider's content; however, the precedence that has been set does not support individuals to be qualified as continuing education providers. Ms. Roy stated that her class content is always approved by a principal broker.

MOTION BY BYRON HENDRICKS TO DENY PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER. Discussion: Mr. Hendricks stated that the board has not historically approved individuals as continuing education providers. Ms. Edwards asked how Ms. Roy petitioning as an entity would be more beneficial. Mr. LeFeber stated that based on expertise he felt both Ms. Roy and Mr. Wilcox were qualified to be certified as continuing education providers. Mr. Dunn stated that the initial intent to have petitions to qualify as continuing education providers reviewed by the board was to address record keeping responsibilities. Chair Kegler clarified the significance of the decision to deny the petition is distinguishing between the provider, who is the record keeper and the instructor, who has the topic and the knowledge, and the board is looking for an entity that is a record keeper rather than an instructor.

MOTION CARRIED BY 4 AYES (Lee Dunn, Marcia Edwards, Bryon Hendricks, Art Kegler) AND 3 NAYS (Joann Hansen, Bob LeFeber, George Slape).

4. John's Waterproofing Co. (John Lombardi). Mr. Lombardi appeared and stated that he is the owner and president of John's Waterproofing Co. and his company has been providing instruction for the realtors on an invitation basis for a number of years. Marcia Edwards asked Mr. Lombardi how he accesses realtors and he explained that until recently, he has been approached by the principal broker individually. Chair Kegler asked Mr. Lombardi how he accesses the other industry members and he indicated that he would send blanket flyers to insurance agents. Mr. Hendricks asked Mr. Lombardi his license status in Washington and Mr. Lombardi indicated that he was still in the process of finalizing with Washington.

MOTION BY LEE DUNN TO DENY PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER. Discussion: Mr. Hendricks stated that he agreed with Mr. Lombardi in that brokers do need an education in waterproofing. Mr. Lombardi asked the board about the possibility of submitting a revised petition for consideration and Ms. Edwards expressed her confidence that Mr. Lombardi's expertise will not be lost due to this process because the process is working.

MOTION CARRIED BY UNANIMOUS VOTE.

5. Spencer T. Wyndham. Mr. Wyndham appeared and stated that he has been an environmental professional, instructor as well as a record keeper for many years and he also explained that knowledge about mold is not common in the real estate business. Mr. Wyndham also explained that because he is not able to provide continuing education credits, his course is not beneficial in that way and he expressed his concern about being denied in this process based on budgetary issues. Mr. Hendricks clarified that this process is to certify continuing education providers to ensure that record keeping requirements are met. Ms. Edwards asked Mr. Wyndham what kind of feedback he has received from the industry regarding his

courses and he responded that industry members are reluctant to include anyone from the outside. Mr. LeFeber asked Mr. Wyndham if he had the opportunity to review the list of course topics that have been approved by the Agency and determined what category mold falls under and he responded that he petitioned the board based on his review of the course topics. Mr. Slape asked Mr. Wyndham if he is employed by a firm and he responded he is a sole proprietor and was unsure as to applying as an entity or an individual; however, he could apply as an entity instead.

MOTION BY BYRON HENDRICKS TO DENY PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER.

Discussion: Ms Edwards expressed concern of instructors' access to brokers being limited by denial of petitions. Mr. Hendricks explained his support of the motion to deny is based on the fact that every principal broker can determine the quality and topic of education that they want delivered to licensees. Joann Hansen asked Commissioner Bentley if property managers also have continuing education requirements and he responded that property managers are typically brokers and fall under the same continuing education requirements.

MOTION CARRIED BY UNANIMOUS VOTE.

6. The Entrust Group (Curt Smeller). Mr. Smeller appeared and asked if there has been any movement toward approving instructors at the state level and Commissioner Bentley responded that the current statutes under which the Agency is operating place the responsibility for approval of instructors to the certified provider. Mr. Smeller requested to withdraw his petition and Chair Kegler accepted his request.
7. R.E. Roof Solutions, Inc. (John Hardesty). Travis Swader appeared on behalf of R.E. Roof Solutions, Inc. and stated they provide a two-hour class that covers all areas of roofing, and he has personally been involved in the roofing industry for 20 years and also holds several certifications. Mr. Slape asked Mr. Swader what his class content would be as a continuing education provider and Mr. Swader referred back to the class content he described earlier. Mr. Slape also asked Mr. Swader how he promotes his classes and Mr. Swader responded that he actively solicits realtors and he would be the only instructor. He also specified that his company performs roof inspections and are a full service roofing contract company.

MOTION BY ROBERT LEEFER TO DENY PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER.

Discussion: Mr. LeFeber stated that Mr. Swader's situation is similar to other petitioners who were denied and pointed out that his expertise is as an instructor rather than a provider. Mr. Swader asked if it would be possible for him to approach the board in a different manner and Ms. Edwards responded that he is not prohibited from approaching the board again.

MOTION CARRIED BY 5 AYES (Marcia Edwards, Joann Hansen, Bryon Hendricks, Art Kegler, and Bob LeFeber) AND 2 NAYS (Lee Dunn and George Slape).

8. First American Home Buyers Protection (Linda Collins). Ms. Collins appeared on behalf of FAHBP and stated she is an area manager for the

company and she relied on her application/petition that was submitted to justify her petition. She also explained that HUD recognizes FAHBP as a settlement service company. Ms. Edwards asked Ms. Collins if FAHBP would host other instructors and Ms. Collins stated that she and her colleague would be the only instructors providing home warranty education. Ms. Collins also stated that FAHBP is a certified continuing education provider in states across the nation.

MOTION BY BYRON HENDRICKS TO APPROVE PETITION TO QUALIFY AS A CERTIFIED CONTINUING EDUCATION PROVIDER. Discussion: Mr. Hendricks explained his support of this motion was based on FAHBP is a related industry to the real estate industry and also because they are a corporation that will potentially host other instructors.
MOTION CARRIED BY 6 AYES (Marcia Edwards, Joann Hansen, Byron Hendricks, Art Kegler, Bob LeFeber, and George Slape) AND ONE NAY (Lee Dunn).

9. Armbrust & Associates. Brad Armbrust appeared and his company has a continuing education department that services the appraisal side of things and they also currently have ten classes and an instructor that have been approved by the Appraiser Certification and Licensure Board. Lee Dunn asked Mr. Armbrust if he was in the business of providing education and Mr. Armbrust responded yes. Mr. LeFeber asked Mr. Armbrust if he was an appraiser and he indicated that he is an appraiser as well as an investor. Mr. LeFeber inquired what percentage of Mr. Armbrust' time is spent on continuing education and he responded that his time involved with continuing education is limited because his colleague is the coordinator of the education department.

MOTION BY LEE DUNN TO APPROVE PETITION TO QUALIFY AS A CERTIFIED CONTINUING EDUCATION PROVIDER.
MOTION CARRIED BY UNANIMOUS VOTE.

Mr. Hendricks suggested that the board schedule a work session regarding the review process of petitions to qualify as a certified continuing education provider. The board consensus was to participate in a work session at the June 6, 2011 board meeting in Medford and also postpone any petitioner's attendance to the following meeting on August 1, 2011. Chair Kegler asked that written comments from board members be submitted to him by May 10, 2011.

C. Agency recommendation to Board on Advanced Real Estate Practices Course
~~Petitions = Stacey Harrison. None~~

IV. NEW BUSINESS. None.

- V. COMMUNICATIONS – Administrative Actions Summary.** No discussion.
- A. Administrative Actions Summary, November 18, 2010 through January 17, 2011.
 - B. Administrative Actions Summary, January 18, 2011 through March 30, 2011.

VI. OREGON REAL ESTATE NEWS JOURNAL-Commissioner Gene Bentley. No discussion.

VII. REPORTS

A. Chair Kegler

1. Board meetings and continuing education credits. Chair Kegler stated that this issue had been discussed extensively during the meeting and the item should be tabled until the June 6, 2011 board meeting.

B. Commissioner Gene Bentley

1. Select locations for June 6, August 1, October 3, and December 5 board meetings (travel expense sheet provided in packet). Commissioner Bentley summarized the expense sheet provided. The board adopted the following tentative schedule as final schedule:
 - June 6, 2011 – Medford
 - August 1, 2011 – Portland
 - October 3, 2011 – Cannon Beach
 - December 5, 2011 - Salem
2. Legislative Update.
 - SB 5544-Agency budget bill tentatively scheduled for a work session on April 26, 2011.
 - SB 156-Housekeeping bill for the agency received a “do pass” recommendation.
 - SB 485-This bill would give the Agency the authority to obtain cease and desist orders from a court to halt unlicensed activity until an investigation can be conducted and although there was a technical issue, it should be resolved soon.
3. ARELLO Update. Commissioner Bentley attended the ARELLO Mid-Year Conference last week and one of the topics was social media and the Agency is exploring tools that may benefit customers in this area.
4. RFP for examination services. Mr. Bentley thanked Chair Kegler for his participation in the process and reported that PSI has been awarded the contract.

C. Agency division reports - Deputy Commissioner Dean Owens. Commissioner Bentley handled this agenda item in Mr. Owens absence and explained that the Agency has just completed a project to organize all of the assistant attorney general opinion letters that have been submitted to the Agency throughout the years.

1. Regulation Division – Selina Barnes. Ms. Barnes stated that job recruitment for a Financial Investigator 1 position was posted and will close today. She also indicated that caseloads have not increased and are moving in a timely manner.
2. Licensing Division – Laurie Hall. Ms. Hall stated that workload is being maintained and they are working on capturing e-mail addresses and phone numbers for the expected database conversion. She also indicated that the number of brokers continues to decrease slightly and then she reviewed the statistics provided in the handout.
3. Education Division – Stacey Harrison. Ms. Harrison reviewed the statistics provided in the handout and reported the division will be holding a certified provider training April 14, 2011. She also explained that the

Education Division is involved in the database conversion; however, the focus now is the involvement with PSI.

4. Land Development Division – Laurie Skillman. Ms. Skillman reviewed the statistics in the handout.
5. Administration/Information Systems Division – Erica Kleiner. Ms. Kleiner stated the tentative budget work session is scheduled for April 26, 2011; the Agency has hired a Public Service Representative 4 staff member as a limited duration position which is scheduled to end June 30, 2011, re-classed a Program Analyst 1 position and this recruitment closes in two weeks. Ms. Kleiner directed attention to the RFP timeline she provided.

VIII. ANNOUNCEMENTS – Next board meeting June 6, 2011, in Medford, Oregon.

IX. ADJOURNMENT

Respectfully submitted:



GENE BENTLEY
COMMISSIONER

Respectfully submitted:



ARTHUR KEGLER
BOARD CHAIR

