

Nevada Real Estate Commission  
February 28, 2006  
Bradley Building  
2501 E. Sahara Avenue  
2<sup>nd</sup> Floor Conference Room  
Las Vegas, NV 89104

## MINUTES

**9:30 a.m.**

**Tuesday, February 28, 2006**

President Rossum opened the meeting at 9:35 a.m.

### **(1) COMMISSION/DIVISION BUSINESS**

#### **INTRODUCTION OF COMMISSIONERS IN ATTENDANCE**

Beth Rossum, Charlie Mack, Lee Gurr were present in Las Vegas. Curry Jameson, and Kateri Cavin, Deputy Attorney General acting as Commission Counsel were present in Carson City.

#### **INTRODUCTION OF DIVISION STAFF IN ATTENDANCE**

Present in Las Vegas were Gail Anderson, Administrator; Pamela Riebe, Chief Investigator; Matt DiOrio, Information/Education Officer; Joanne Gierer, Legal Administrative Officer; Linda Pierson, Commission Coordinator; Aikaterine Vervilos, Deputy Attorney General. Present in Carson City was Kim Clementi.

### **(2\*) COMMISSION/DIVISION BUSINESS**

#### **(2\*-1) Discussion regarding Administrator's Report on Personnel update.**

Gail Anderson presented a report on Division personnel.

- Pamela Riebe is retiring as of March 31, 2006.
- Alicia Stevenson resigned as Commission Coordinator for Real Estate and Appraisal commissions.
- Nathaniel Green recently hired as IT specialist.

#### **(2\*-2) Discussion and possible action regarding distance education certification requirements pursuant to NAC 645.433.**

President Rossum read a statement regarding this issue. Commissioner Gurr stated her concern is that quality and variety be provided in distance education courses. Commissioner Gurr further stated that some smaller specialized varieties of courses may not be available through distance education.

Commissioner Mack stated he prefers as little regulation as possible and that classes in question could be audited by ARC members. Commissioner Mack further stated that the

original goal of the regulation was noble but the application has been over and above what was anticipated.

Commissioner Jameson stated that the bureaucracy is out of hand. Commissioner Jameson further stated that the other Commission asked some good questions about the content and quality of the instructors and that these can't be replaced with accreditation.

Commissioner Gurr asked if the original intent of the Division was not to approve a course unless it was accredited. Gail Anderson stated the Division original intent was that no course would be approved unless it was accredited.

Commission Gurr asked Ms. Anderson if a course that didn't meet each of the criteria in the regulation would be approved. Ms. Anderson stated Kateri Cavin is looking at the regulation also. Ms. Anderson further stated that the Commission is the approving body, but the Division wants to make recommendations and look at the class.

Commissioner Mack disclosed that he teaches one continuing education class per month. Commissioner Mack asked Ms. Anderson if class evaluations have been looked at in the past. Ms. Anderson stated Nancy Smith is preparing a report on the audit program.

President Rossum disclosed that she owns the Nevada Real Estate School.

President Rossum read an e-mail from Commissioner Green with his opinion on this issue. Commissioner Green stated in the e-mail that he does not want to make accreditation with ARELLO mandatory.

President Rossum called for comments from education providers in the audience.

### **In Las Vegas**

#### **Steve Oxman, National Director of Curriculum and Instructor Development for Kaplan Professional Schools.**

Mr. Oxman stated that Kaplan Schools believe in strong standards for distance education. Mr. Oxman stated that the question is whether the particular accreditations listed in the regulation should be required or whether the standards that the regulations seek to enforce are what should be required. Mr. Oxman stated that Kaplan's position is the standards should be required without necessarily the process of approvals, and they would like the Commission to continue to look at ways in which distance education standards can be set and enforced while letting the market continue to operate and encouraging innovation in an evolving field.

#### **Jordan Logan – President, Kaplan Professional Schools of Nevada**

Mr. Logan stated he concurs with Mr. Oxman's statement.

**David Delinsky – Academy for Real Estate Professionals**

Mr. Delinsky stated that for a small school it would be financially burdensome to approve all distance education courses. Mr. Delinsky stated the manual to learn how to fill out the application for accreditation is \$200. Mr. Delinsky stated that ARELLO doesn't look at course content at all only the delivery method.

**Robert Moore - LVCB Real Estate School**

Mr. Moore summarized his problems with getting approval for his courses. Mr. Moore stated that he is opposed to mandatory regulation on getting approved from a secondary source that is outside of Nevada and outside of the Real Estate Commission.

**Dr. Cindy Webber - ABC Real Estate School – Administrator/Instructor**

Dr. Webber stated she thought the Division was looking forward to ARELLO to know how many hours a course would be approved for when it's a distance education course. Dr. Webber stated she is not in favor of ARELLO approval, but wonders if without ARELLO there would be some sort of standard showing time frames for courses.

**In Carson City**

**Cherie Williams – Executive Officer, Reno Sparks Association of Realtors**

Ms. Williams stated she agreed with other comments and that it would create undue burden on secondary providers to go through ARELLO certification.

Commissioner Gurr questioned Ms. Williams regarding costs and issues in her area.

Commissioner Gurr stated she doesn't want to lose a variety of classes and specialized classes because it's difficult to get approvals and certification.

A discussion ensued regarding certification and standards.

**Roger Kidneigh - Licensed broker and instructor with Nevada Real Estate School**

Mr. Kidneigh stated his objection to mandatory ARELLO certification is absence of audit on content and that mandatory certification is not a viable remedy to a perceived problem in education. Mr. Kidneigh stated he believes mandatory certification is a handy escape hatch to the Division so it doesn't have to examine classes.

Commissioner Jameson stated the instructor is the one who develops the content and content is key to the issue.

Commissioner Gurr stated the concern is a matter of certifying delivery and that content is the purview of the Commission with guidance from the Division. Commissioner Gurr stated the issue is how to make sure delivery is done properly and to have competent instructors available to answer questions in distance education. Commissioner Gurr asked if the Division has comments on this issue.

Gail Anderson disclosed that she chairs the Distance Education Commission for ARELLO nationally. Ms. Anderson stated the Division's job is to regulate with direction from the Commission on the issue. Ms. Anderson further stated that if the Commission wants the Division to review and recommend courses then a regulation is not required. Ms. Anderson stated that the Division had notified education providers that certification would be needed by a certain time, and that the Division does use ARC to audit courses, both distance education and live classroom.

President Rossum asked Ms. Anderson if the current NAC requires certification. Ms. Anderson stated she has no knowledge of that.

President Rossum asked Commissioners for opinions on the issue of certification. A lengthy discussion ensued.

President Rossum asked for motion. Commissioner Mack moved to adopt a policy that makes distance education certification optional. Second by Commissioner Jameson. There was no discussion on the motion. Vote: Commissioners Mack, Jameson – aye, Commissioner Gurr – nay. Chair – aye. Motion carried.

**(2\*-3) Discussion and possible action on proposed changes, additions and deletions to NAC 645, including review of public comments from regulation workshops held February 1, 2006 and February 6, 2006.**

**Discussion regarding section 2-22 of regulation regarding 24 hours of instruction for business brokers.**

Commissioner Mack stated he doesn't think enough people are taking the courses to warrant live classroom and that the Commission needs to look at it and modify it as distance education.

Matt DiOrio stated that anyone licensed as of Oct 1, 2005 will be grandfathered in and the 24 hours requirement doesn't apply.

Commissioner Gurr stated the word "classroom" should be stricken from Sections 2-1(c) and 2-22 because they are looking at candidates who have the willingness to complete distance education courses.

Gail Anderson stated that SB 315 32(a) says an applicant for a permit must provide proof to the Division of completion of courses in classroom. President Rossum asked Kateri Cavin if the 24 hours of classroom can be modified to include distance education. Ms. Cavin stated that she will check with the LCB bill drafter for an answer.

President Rossum asked if there are providers to do the 24 hour class. Gail Anderson stated that there are no providers but the commission has not adopted the regulation specifying the curriculum yet so no providers have come forward as yet.

President Rossum asked for comment from education providers.

### **In Las Vegas**

#### **Len Krick – Corporate broker United Business Brokers in Las Vegas and individual broker for Sunbelt Business Brokers across country, instructor for International Business Brokers Association, Certified Business Intermediary.**

Mr. Krick stated that Toby Tatum, Certified Business Intermediary in Reno, is preparing to teach this course. Mr. Krick stated that Nevada is the leader in the area of business brokerage education requirements. Mr. Krick stated that the question is how much demand there will be for these courses. Mr. Krick further stated that classroom interaction is important for some aspects of the class, but some is suitable for distance education. Mr. Krick stated that adopting the IBBA program would be one recommendation.

Commissioner Mack asked Mr. Krick how much IBBA courses cost. Mr. Krick stated \$300 per each eight hour course.

### **In Carson City**

#### **Toby Tatum**

Mr. Tatum stated the cost of the course he wants to teach is \$400 for 3 day class.

Commissioner Mack asked Matt DiOrio for his feelings on Mr. Krick's comments. Mr. DiOrio read the definition of school from the regulation. Mr. DiOrio then read text from NAC 645.800(3) in reference to the 24-hour property management course. Mr. DiOrio stated there may be an incongruity in that the Division has always wanted pre-licensing courses taught by a school as defined in the Nevada Administrative Code and yet references professional organizations in the property management section that he read.

Gail Anderson stated that the permits are specialized programs and if the Commission would wish to add language similar to definition of a school into the regulation that would open up the possibility of reciprocally accepting Arizona education in Nevada, as is currently done with pre-licensing education if it's approved by a jurisdiction.

#### **Len Krick**

Mr. Krick stated that IBBA will apply to be an approved school in Nevada and will meet the qualifications. "What you adopt in nac here, if the ibba is going to be an option needs to either include course names or it's got to have the same content they're not going to make a special course just for Nevada so when you get going with the nitty gritty of this just know that if it's adopted just as it is here Toby and I are going to teach this one." Is there anything of value in what he said here? I'm not sure how to condense it.

Commissioner Mack stated that the Commission needs to add the language Matt mentioned in NAC 645.800. Commissioner Mack stated that if the Commission decided to go with the IBBA courses the language in the regulation should mimic somewhat what they're teaching in those three courses if the courses are found to be acceptable. Commissioner Mack asked Matt DiOrio to take a look at the three courses before the April Commission meeting.

Per Kateri and Gail Anderson, the language in front of them has been submitted to LCB on February 16, 2006 and can either be reworded at this meeting or changed when it comes back from LCB to be voted on at the adoption hearing in April.

### **Len Krick**

Mr. Krick suggested that the language should require an approved school to submit course curriculum to the commission for approval without stating the specific curriculum requirements in the regulation.

Commissioner Mack stated he has a problem writing into the regulations courses the Division hasn't reviewed and the commission hasn't seen.

Matt DiOrio – reason for specificity in language is that one dealt more with general principles and one was specific to Nevada.

Commissioner Mack – asked matt to find out what Arizona rate is, for bulk rate for class is and see if IBBA would honor that.

Commissioner Gurr moved that proposed regulation draft 216-06 be amended to include language substantially similar to NAC 645.800(3) modified to fit language of proposed business brokerage regulation, removing reference to NRS and NAC. Second by Commissioner Mack. Motion passed.

### **Discussion on Section 5 of proposed regulations regarding business enterprise.**

Commissioner Jameson stated that he thinks LCB won't accept section 5. The Commissioners agreed it needs to be modified and the definition clarified.

Commissioner Gurr stated that the Commission needs to clarify what is the intent and should send it back to the LCB and work it out with them. Ms. Cavin stated that LCB didn't like the definition in sec 5 and that they will come back with language.

### **Discussion on Section 17 of proposed changes, regarding NAC 645.855**

Commissioner Mack stated that when a salesperson changes brokers, the new broker should be involved in the disciplinary hearing.

Commissioner Gurr stated that the consensus in the past was that the Commission wants current employee and broker to attend hearing, and that the prior broker may or may not be called to answer for failure to supervise.

President Rossum asked Kateri Cavin if the Commission has the right to fine broker for not attending hearing. Ms. Cavin stated if the Commission puts it in the regulation, then the current broker can be fined.

Commissioner Gurr stated that some current brokers are not being made aware when agents were being disciplined.

Commissioner Jameson stated that both brokers should attend the hearing.

Commissioner Mack moved that language should read that “the broker of record at time of alleged violation and current broker” and delete 17.2. Second by Commissioner Jameson.

Commissioner Gurr stated that the broker at time of violation should be left out of it as that broker may be called in for failure to supervise. Commissioner Gurr further stated that the former broker may have been the one to fire the agent and file the complaint.

Vote: Commissioners Mack, Jameson, aye; Commissioner Gurr – nay; chair – aye.  
Motion carried.

**Discussion on NAC 645.613 regarding legal signatures**

Gail Anderson stated that a comment came up in course of writing Nevada Law and Reference Guide concerning electronic signatures and asked if the Commission needs to define legal signature by regulation to avoid conflict with existing law.

Kateri Cavin read from NRS 719.40 which states a record or signature may be in electronic form and stated that the Commission could add definitions to regulation.

A lengthy discussion ensued.

Commissioner Jameson moved to add language from NRS 78.010(h) and (i) to the definition in NAC 645. Second by Commissioner Gurr. Motion passed.

**(3\*) Education: Consent Agenda –**

**(3\*-1) Community College of Southern Nevada**

**“Real Estate Brokerage”**

**Request: 45 Hours                      Classroom**

Commissioner Mack moved to approve. Second by Gurr. Passed.

**(2\*-5) Commissioner Comments**

None

**(2\*-4) Discussion and possible action regarding proposed changes for 2007  
Legislative Session.**

No items to discuss at this time.

**(2\*-6) Discussion and possible action on date, time, place and agenda items for  
upcoming meeting.**

Commissioner Jameson requested that the next agenda include a discussion of continuing education credits for commission hearings when the hearing falls short of the three hours required for continuing education credits.

Gail Anderson – asked Ms. Cavin projected time frame for adoption of proposed changes to the regulations. Per Ms. Cavin the changes need to be back to LCB by March 17, 2006 in order to have the adoption hearing in April.

**(4) Public comments**

None.

**(5\*) Adjournment:**

President Rossum adjourned meeting at 12:15

Respectfully Submitted,

Linda Pierson  
Commission Coordinator.