

**New Mexico Real Estate Commission
Special Meeting of August 11, 2016
Real Estate Commission Offices
5500 San Antonio Drive NE
Albuquerque, New Mexico 87109**

MINUTES

Commissioners Present: Greg Foltz, President
Kurstin Johnson, Secretary

Commissioners Attending
Telephonically: Clifford Stroud, Member
Kirk Clifton, Member

Commissioner Excused: Gretchen Koether, Vice President

Staff Present: Wayne W. Ciddio, Executive Secretary
Lyn Carter, Chief Investigator
Tom Baca, Education Administrator
Germelyn Vivar, Administrative Secretary

1. 11:00 a.m. Call to Order, Welcome, and Introductions- Greg Foltz, President

Commissioner Foltz called the meeting to order and welcomed all in attendance.

2. Determination of a Quorum

With two Commissioners present and two Commissioners attending telephonically, Commissioner Foltz determined that a quorum was present.

3. Approval of the Agenda for the August 11, 2016 Special Meeting

Commissioner Kurstin Johnson moved approval of the agenda for the August 11, 2016 Special Meeting. Commissioner Clifford Stroud seconded the motion and it carried unanimously.

4. Discussion and possible action to clarify and amend motions passed at the July 18, 2016 Regular Commission Meeting regarding the Core Course and possible conflicts with rules adopted by the Commission on June 20, 2016.

Commissioner Foltz asked Commission Executive Secretary Wayne W. Ciddio to review Commissioner Foltz's memorandum of August 9, 2016 comparing the motions passed by the Commission on July 18, 2016 with the rules adopted by the Commission on June 20, 2016, and discussing conflicts between the motions and the rules.

Mr. Ciddio presented the following information, labeled as Conflicts 1, 2, and 3.

Conflict No. 1.

Rule adopted on June 20, 2016:

Continuing Education Requirements, 16.61.13 D- The new core course requirements shall apply to those associate brokers and qualifying brokers who have not completed the eight (8) hour mandatory course in their current licensing cycle by December 31, 2016. If a broker has so completed the eight (8) hour mandatory course, the core course requirement will not apply until their next licensing cycle. The eight (8) hour mandatory course will not be offered after December 31, 2016. Brokers who have so completed the eight (8) hour mandatory course and who wish to take the new four (4) hour core course will receive four (4) additional hours of education category credit in their current licensing cycle.

Motion adopted on July 18, 2016

All brokers will be required to take the Core Course for either core or elective credit by no later than December 31, 2017, and annually thereafter consistent with their licensing cycles.

Discussion

There are approximately 9,500 licensed brokers, active and inactive, who would have to take the course during 2017 to meet this requirement. The sixteen currently approved Core Course Instructors would have to teach the

course to 594 students, or about 50 students a month, in each of the twelve months of the year.

Additionally, these numbers assume an even distribution of students taking the course over twelve months. Historically, brokers have tended to take the Mandatory Course closer to the end of their licensing cycle. If this trend were to continue with respect to the Core Course, monthly student loads could be considerably heavier during the last half and last three months of 2017. It will be impossible to implement the motion adopted on July 18.

Additionally, the July 18 motion may amount to changing the rule adopted on June 20 without a rule hearing.

After discussion, Commissioner Johnson moved that the Commission repeal the above-referenced motion passed on July 18, 2016 and adhere to the rule adopted on June 20, 2016. Commissioner Kirk Clifton seconded the motion and it carried unanimously.

Commissioner Johnson asked that the Commission, Commission staff and Counsel think about ways that brokers can be encouraged to take the Core Course during 2017, including by giving one-time additional continuing education credit for the Core Course for brokers who take the course during 2017. Commission staff was directed to place this item on the agenda of the September 19, 2016 regular Commission meeting for discussion.

Conflict No. 2

Rule adopted on June 20, 2016

Approval of instructors, 16.61.15.12 C (1) Core course instructor candidates must complete a core course training, make a presentation to the Education Advisory Committee, receive a favorable recommendation from the Committee, and be approved by the Commission.

Motion adopted on July 18, 2016

Effective January 1, 2017 the road map to Core Course Instructor approval will be amended to be consistent with rules adopted by the Commission June 20, 2016 (see above).

Discussion

The road map to Core Course Instructor approval adopted by the Commission on March 21, 2016 provided that candidates complete an Instructor Boot Camp, attend a day-long pilot, and co-teach the course twice with a senior instructor.

Discussion about amending the road map centered on the questions of a conflict with the rule adopted on June 20 and whether one individual should be empowered to approve all Core Course instructors.

The January 1, 2017 effective date in the July 18 motion was adopted at the urging of Commission contractor Todd Clark who wanted to recruit and train another group of Core Course instructors before the end of the calendar year so that they would not have to get ESC and Commission approval on top of the requirements to complete the Instructor Boot Camp and a pilot course. Mr. Clark told the Commission he thought the requirement for EAC and Commission approval would make it difficult to recruit another class.

It now appears that it will be difficult if not impossible to recruit and train another Boot Camp class before the end of the year because of the unavailability of the preferred venue and the challenge of getting a contract in place.

The July 18 motion conflicts with the rule adopted on June 20 and with the proposed September 15, 2016 effective date of the rules (more about this under Conflict No. 3) and may amount to changing the rules without a rule hearing.

After discussion, Commissioner Johnson moved that the Commission repeal the above-reference motion and adhere to the rule adopted on June 20, 2016, with the understanding that a quorum of Education Steering Committee members would be present at subsequent Instructor Boot Camps to hear final presentations by prospective Core Course instructors and make recommendations for approval or disapproval to the Commission. Commissioner Stroud seconded the motion and it carried on a 3-0 vote, with Commissioner Clifton having excused himself from the meeting at this point.

Conflict No. 3

Rule adopted on June 20, 2016

All active and inactive associate brokers and qualifying brokers shall successfully complete a minimum of thirty six (36) credit hours of continuing education in courses approved by the commission during each licensing cycle.

Motion adopted on July 18, 2016

The Commission staff was directed to file rules adopted on June 20, 2016 with the State Records Center and Archives with a September 15, 2016 effective date.

Discussion

The September 15 effective date sets the stage for questions from brokers who are in the middle of their licensing cycles as to whether they are required to complete the old requirement of 30 hours or the new requirement of 36 hours. The Commission will get these questions regardless of the effective date of the new rules, but having a later effective date would allow the Commission staff to give licensees more advance notice, as well as the opportunity to better prepare and possibly increase the number of Core Course instructors.

Historically the Commission has made January 1 the effective date for new rules. The beginning of a calendar year is a clear demarcation and facilitates reconstructing what rules were in effect at a given time. This often comes into play in disciplinary actions when alleged violations are based on what rules were in effect at the time.

The proposed effective date appears to be driven by other language in the rules that says Education Advisory Committee members are to be appointed at the first Commission meeting following the effective date of the rules—in this case the September 19, 2016 Commission meeting.

After discussion, Commissioner Johnson moved that the Commission repeal the above-referenced motion from the July 18, 2016 meeting, and make January 1, 2017 the effective date of all of the new rules, with the

understanding that the Commission will appoint Education Advisory Committee members at the first Commission meeting in 2017. Commissioner Stroud seconded the motion and it carried unanimously.

5. Adjourn

There being no further business, Commissioner Johnson moved that the meeting adjourn. Commissioner Stroud seconded the motion and it carried unanimously. The meeting adjourned at approximately 1:20 p.m.

Greg Foltz, President
New Mexico Real Estate Commission