



Illinois Department of Financial and Professional Regulation

Division of Profession Regulation - Real Estate

PAT QUINN
Governor

BRENT E. ADAMS
Secretary

DANIEL BLUTHARDT
Director
Division of Professional Regulation

MINUTES REAL ESTATE ADMINISTRATION & DISCIPLINARY BOARD January 14, 2010

The Real Estate Administration and Disciplinary Board convened at 11:40 a.m. on January 14, 2010, at the Department of Financial & Professional Regulation Division of Professional Regulation, 122 S. Michigan Avenue, Chicago, Illinois for the purpose of conducting a general business meeting.

The following member(s) were present for all or part of the meeting:

Ron Hardgrove, Chairman – Real Estate
Judie McConville, Member
Paul Park, Member
Patrick Sharpe, Member
Walter Son, Member

The following member(s) were excused from the meeting:

Also present for all or part of the meeting:

Young Brockhouse, Acting Chief Testing Officer - teleconference
Mark Oaks, Education Coordinator
John Botner, Chief of Prosecutions
Matt Rupsis, representing General Council Mark Thompson
Ernest Hernandez, Chief of Investigations
Alan Toban
Marki Lemons
Debra Dolinski, Board Liaison/Administrative Assistant

APPROVAL OF MINUTES:

Motion: A motion made/seconded to approve the December 10, 2009 Real Estate Administration and Disciplinary Board Minutes. Motion passed unanimously.

AGENCY UPDATE:

There will soon be two postings for a Real Estate Investigator position in the near future; one for Chicago and one for Springfield.

EDUCATIONAL ADVISORY COUNCIL (EAC):

EAC approved the following number of applications at today's meeting:

- 2 Pre-license schools
- 14 Pre-license courses
- 3 CE courses
- 1 CE course denied
- 3 CE Instructors
- 1 Pre-License Instructor

LICENSING:

The Licensing Report reflecting the number of all professional licenses issued within the Real Estate Bureau for December 2009 was distributed.

A report showed the pass rate for broker and salesperson's State Examinations from January through November 2009.

Licensing is preparing for the broker renewal.

Active Real Estate Licensees for December

- All Licensees 81,672
- Brokers 27,720
- Salespersons 43,713 (this does not include licenses with an inoperative status)
- Leasing agents 1,383

EXAMINATIONS:

Distributed was the Examination Report dated January 14, 2010 that was categorized by "Examinations Completed – Licensees with First Examination," "Follow-Up Examinations Completed by Examiner," "Examinations Referred to Supervisor-Closed," "Examinations Completed – Findings Summary(4th Quarter 2009)" for the month of December. For the month of December, Examinations have conducted 115 audits by using the "Brokerage Verification Report." Examiners completed 36 examinations. The follow up examinations showed 27 offices in compliance, 5 offices were referred to Supervisor; 2 files were closed under "Examinations Referred to Supervisor." For the Findings Summary in the 4th Quarter were: total number of examinations completed – 127, total number of examinations completed without Findings – 25, and the total number of Findings – 451.

INVESTIGATIONS:

Distributed was the Investigated Report; the number of open cases as of December 31, 2009 were 234 with the breakdown of open cases by year; and for December 31, 2008 it was 748 that too with the breakdown of open cases by year. The report reflected the total number of complaints opened, the number complaints assigned to an investigator, and the total number of cases that were closed for the year 2009.

Training for the Investigators in Appraisal Investigation is scheduled on January 15, 2010 at the Thompson Center; and will be conducted by Brian Weaver and Attorney Craig Capilla.

Preparation is being conducted to develop pertinent questions for applicants desiring to fill two positions for Real Estate Investigator.

PROSECUTIONS:

The Prosecution Report was distributed reflecting the total real estate cases in Legal; and the activity for December 2009. The two law students had finals for the past several weeks which caused a slow down in activity in Prosecutions; they have returned and will be working full-time till the end of January. The Department is expecting to hire 2 real estate attorneys in the near future.

Prosecutions filed notices of Refuse to Renew alleging that the Real Estate Licensee had a criminal sex offense.

Prosecutions are also working on continuing education deficiencies for Real Estate Brokers and Real Estate Appraisers with the help of Debbie Niemann.

There are 3 formal hearings scheduled in February and 1 in April. Staff will contact the Board to schedule a Member for the upcoming formal hearings. Judie McConville is scheduled on January 26th for informal conferences; Patrick Sharpe is scheduled on February 10th for CRC.

OLD BUSINESS:

On December 31, 2009, the rewrite of the Illinois Real Estate Act of 2000 went into effect.

At today's EAC Meeting, it was discussed that the Department is working with the procurement office and it looks like we will have AMP develop the proficiency exams. As required by the Act, pre-license schools will administer the exam and AMP will score it. The Department will create a specific outline for the 30 and 45 hour courses with the input of the providers, instructors and industry. A salesperson's license will not be issued after April 30, 2011; and all salespersons will be required to transition to a broker's license by April 1, 2012.

NEW BUSINESS:

READ's Meetings are generally held on the second Thursday of each month; due to conflicts, we are changing the meeting date to the third Thursday for the following months: May, June, July, and November. The dates for the meetings are as follows: May 20th, June 17th, July 15th(Springfield), November 18th.

Mr. Toban asked the Board at what point will the Department start requiring Offices to be in compliance in having a policy manual and the new language in the disclosure forms that became effective 1/1/2010. Mr. Toban suggested that the Department create the specific language to avoid misinterpretation among offices; Mr. Brockhouse suggested submitting his version of the language and we'll review it. Mr. Hardgrove mentioned that Offices should be in compliance the day the rewrite became effective; if an office is examined and they out of compliance, the Office will have the opportunity to correct all violations.

DELIBERATIONS:

At 12:00 p.m., a motion made/seconded to go into closed session to deliberate on disciplinary matters and January's CRC recommendations pursuant to the provisions of Section 2 of the Open Public Meeting Act. Motion passed unanimously.

DPR v. Martin Schwartz #1998-61442

DPR v. Kevin Maloney #2008-07708
DPR v. Gail Payonk #2009-09585
DPR v. Stuart Kaiserman #2008-04842
DPR v. Francisco Garcia #2006-60322
DPR v. Lana McCarroll #2007-70274
DPR v. Kenneth Bivens #2008-00546
DPR v. Michael LaHood #2007-60616
DPR v. Jorge Cruz #2009-02682

REOPEN THE MEETING:

A motion made/seconded to reopen the closed meeting of the Real Estate Administration and Disciplinary Board at 1:20 p.m.

RATIFICATIONS:

Case File Review Committee Members for January were Paul Park, Ron Hardgrove, John Botner and Ernest Hernandez

Motion made/seconded to ratify the 31 cases recommended for closure from Investigations from the memo dated December 31, 2009 with 2 cases remaining in investigations and 2 cases referred to Prosecutions. Motion passed unanimously.

Motion made/seconded to ratify the 10 cases being referred to Prosecutions from Investigations, 2 being closed, 15 cases closed with the issuance of an administrative warning letter or Cease & Desist from the memo dated December 28, 2009. Motion passed unanimously.

Motion made/seconded to ratify the 14 cases for closure from Prosecutions from the memo dated January 13, 2010. Motion passed unanimously.

Motion made/seconded to close case #2005-60312. Motion passed unanimously.

RECOMMENDATIONS:

Upon reconvening in open session, motion was made, seconded to approve as presented consent orders in the following case:

DPR v. Martin Schwartz #1998-61442
DPR v. Kevin Maloney #2008-07708
DPR v. Gail Payonk #2009-09585

RECOMMENDATIONS:

Upon reconvening in open session, motions were made in the following cases.

DPR v. Stuart Kaiserman #2008-04842

Motion made/seconded to rescind the recommendation of revocation and fined \$3,000.00 to a civil penalty of \$25,000.00. Motion passed unanimously. After the meeting, information that thereby affects the decisions of the meeting, it is notated that the first decision remains.

DPR v. Francisco Garcia #2006-60322

Motion made/seconded that the above-mentioned licensee's license shall be indefinitely suspended for a minimum of 2 years with a fined of \$3,000.00. Motion passed unanimously.

DPR v. Lana McCarroll #2007-70274

Motion made/seconded that the above-mentioned licensee's license shall be refuse to renew. Motion passed unanimously.

DPR v. Kenneth Bivens #2008-00546

Motion made/seconded that the above mentioned licensee's license shall be refuse to renew with a \$25,000.00 fine. Motion passed unanimously.

DPR v. Michael LaHood #2007-60616

Motion made/seconded that the above-mentioned licensee's license shall be indefinitely suspended. Motion passed unanimously.

DPR v. Jorge Cruz #2009-0282

Motion made/seconded that the above-mentioned licensee's license shall be indefinitely suspended with a \$25,000.00 fine. Motion passed unanimously.

FINDINGS/CONCLUSIONS/RECOMMENDATIONS:

The Board signed Findings of Fact, Conclusions of Law and Recommendations to the Director:

DPR v. Oscar Binilla #2005-60657

DPR v. Marta Njos #2005-70261

ADJOURNMENT:

Motion made/seconded to adjourn the meeting at 1:30 pm. Motion passed unanimously. The next scheduled meeting of the Real Estate Administration and Disciplinary Board is February 11, 2010 at 100 W. Randolph, Chicago, IL.

APPROVED:

Respectfully submitted,

REAL ESTATE ADMINISTRATION
AND DISCIPLINARY BOARD

Ron Hardgrove, Real Estate Director

DATE: _____

Debra Dolinski, Liaison