



North Dakota Real Estate Commission Meeting Minutes – FINAL
1:00 p.m., Monday, February 4, 2019
Lecture Rooms A and B, N.D. Heritage Center
State Capitol grounds, Bismarck
ndrec@nd.gov www.realestatend.org

Present: Roger Cymbaluk, chair; Scott Breidenbach, vice chair; members: Sandra Meyer (on phone), Steven Bitz, Diane Louser; Constance Hofland, special assistant attorney general (on phone); staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; and Kristi Hass, licensing specialist. Members of the public also present.

- I. Call meeting to order. Chair Mr. Roger Cymbaluk called the meeting to order at 1:00 p.m.
- II. Roll call and determination of quorum. Executive Director Ms. Jeanne Prom called the roll, with a quorum of all members present. Mr. Cymbaluk welcomed the public.
- III. Review and approval of agenda. The commission approved the agenda by consensus, noting that during the meeting the agenda may be adjusted due to the schedules of those commissioners, staff, and applicants participating by phone. A review of a tabled license will be added in V., an update on a settlement will be added under VIII., and the independent audit will be added under X. These minutes of the meeting will reflect the additions and the order of discussion and actions.
- IV. Appeal of denied salesperson application – Ms. Shawn Neidecker. See attachment for actions on all license applications.
- V. Review of tabled salesperson license applications – Amanda Schrei and James Connell. (Mr. Connell added to agenda by consensus.) See attachment for actions on all license applications.
- VI. Application review and request for waiver of salesperson pre-license education, national exam – Paula Michel. See attachment for actions on all license applications.
- VII. Review of other license applications. See attachment for actions on all license applications.
- VIII. Update on complaints.
 - A. Case 2018-01 – NDREC v Lingenfelter – Update (added to agenda by consensus). Mr. Scott Breidenbach moved that staff and Ms. Constance Hofland should secure trust fund records to determine if funds were managed as required by law, and also proceed with securing a judgement against Ms. Lori Lingenfelter to collect the fee and fine in the signed Stipulation and Settlement Agreement. Ms. Diane Louser seconded. Roll call vote: ayes -- Ms. Sandra Meyer, Mr. Steven Bitz, Ms. Diane Louser, Mr. Scott Breidenbach, Mr. Roger Cymbaluk; nays – none. Motion carried unanimously.
 - B. Case 2018-15 – Hoover v Graf and Clusiau -- Memorandum. Mr. Steven Bitz moved to dismiss Case 2018-15. Mr. Breidenbach seconded. Roll call vote: ayes -- Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
 - C. Case 2018-18 – Wetsch v Strom and Tweten – Memorandum (moved up in the agenda by consensus). Ms. Louser moved to proceed with a hearing on Case 2018-18 against Mr. Kerry Strom, but not Mr. Cam Tweten. Mr. Breidenbach seconded. Roll call vote: ayes -- Ms. Meyer, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – Mr.

Members of the North Dakota Real Estate Commission are: Roger Cymbaluk, Chair; Scott Breidenbach, Vice Chair; members: Sandra Meyer, Steven Bitz, Diane Louser. Special Assistant Attorney General: Constance Hofland. Staff: Jeanne Prom, executive director; Rob Yost, auditor/CPA; Kristi Hass, licensing specialist.

- Bitz. Motion carried 4-1. Mr. Breidenbach moved to dismiss Case 2018-18 against Mr. Cam Tweten. Mr. Bitz seconded. Roll call vote: ayes -- Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
- D. Case 2018-17 – Ulness v Tweten -- Memorandum. Mr. Breidenbach moved to proceed with a hearing on Case 2018-17. Ms. Louser seconded. Roll call vote: ayes – Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk, Ms. Meyer; nays – Mr. Bitz. Motion carried 4-1.
- E. Case 2018-19 – Keil v Knudson -- Memorandum. Ms. Louser moved to dismiss Case 2018-19. Mr. Bitz seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Bitz, Ms. Louser, Ms. Meyer; nays – none. Motion carried unanimously.

Chair Cymbaluk recessed the commission at 2:47 p.m. and reconvened the commission at 2:52 p.m.

IX. Update from management.

- A. Legislative update. Mr. Bitz moved the commission support a Do Not Pass recommendation on Senate Bill 2353. Mr. Breidenbach seconded. The motion passed on a unanimous voice vote. Mr. Breidenbach move the commission support a Do Not Pass recommendation on House Bill 1523. Ms. Louser seconded. The motion passed on a unanimous voice vote. Mr. Breidenbach move to oppose Senate Bill 2306 as written. Mr. Bitz seconded. The motion passed on a unanimous voice vote.
- B. Applications -- military. The commission discussed but took no action on adding questions to the license applications to identify members of the military, including National Guard, and spouses of military members.
- C. NDCC 43-23-07 – exceptions. The commission discussed the statute and heard from Mr. Charles Huber, broker associate. A North Dakota real estate license is needed to lease commercial property, as commercial property leasing it is not an exception to licensing listed in NDCC 43-23-07.1.
- D. Trust account waivers. The commission received the list of trust account waivers.
- E. 2018-2019 priorities. The commission received the list of priorities.
- F. Other business – report. The commission received but took no action on the January 14, 2019 Consumer Federation of America report on agency and disclosure. The commission heard comments from Mr. Phil Vanyo on two complaints discussed earlier in the meeting.
- G. Office update – criminal convictions, audit. The commission reviewed the current policy on which background checks must be reviewed by the commission. Mr. Breidenbach moved that DUIs from 5 or more years ago do not require commission review. Mr. Bitz seconded. Discussion: Currently, DUIs from 10 or more years ago need commission review. Roll call vote: ayes – Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously. The policy that the commission does not need to review felonies from 20 or more years ago remains in place. The commission reviewed the December 18, 2018 Performance Audit Report on special funds completed by the Office of the State Auditor. Mr. Breidenbach moved that the N.D. Real Estate Commission maintain 2 years of operating funds in reserve. Ms. Louser seconded. Discussion: The current policy requires 1 year of operating funds in reserve. Motion carried unanimously by voice vote. The commission agreed by consensus to review the financial reports next on the agenda.

- X. Financial reports – December 2018 and independent audit (added to agenda by consensus). Ms. Louser moved to approve the financial reports from December 2018 and the independent audit report as presented. Mr. Breidenbach seconded. Discussion: Mr. Robert Yost, CPA/auditor, explained the independent audit completed by Haga Kommer was an unqualified opinion with no significant findings for the year ending June 30, 2018. Motion carried unanimously by voice vote.
The commission resumed their previous discussion on agenda item IX.G.
- F. Office update – modernization, staffing. Ms. Prom provided proposals for an updated comprehensive online licensing system. Mr. Breidenbach moved to authorize Ms. Prom to hire Albertson Consulting, Inc. with a budget of \$70,000 for the updated comprehensive licensing system. Ms. Louser seconded. Roll call vote: ayes – Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously. The commission discussed but took no action on a proposal for an additional staff member provided by Ms. Prom. The proposal was requested by the commission at their December 19, 2018 meeting.
- XI. Minutes – December 19, 2018 meeting and January 15, 2019 special meeting. Mr. Breidenbach moved to approve the minutes as presented from the December 19, 2018 meeting and January 15, 2019 special meeting. Mr. Bitz seconded. Motion carried unanimously by voice vote.
- XII. Next meeting. The meeting will begin at 8:30 a.m., Wednesday, April 3, 2019 in Lecture Rooms A and B in the N.D. Heritage Center, N.D. Capitol grounds, Bismarck.
- XIII. Adjourn. Chair Cymbaluk adjourned the meeting at 5:07 p.m.

attachment



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NAME	LICENSE/OTHER REQUEST/S:	ACTION BY COMMISSION:
IV. Shawn Neidecker – present on phone	salesperson and waiver of national exam	At 1:10 p.m. Chair Cymbaluk announced that the commission was going into executive session to discuss a confidential criminal history record check pursuant to NDCC chapter 12-60. Only the commission, special assistant attorney general, staff and the applicant were present in the executive session. At 1:15 p.m. Mr. Cymbaluk closed the executive session, reconvened the open meeting, and invited the public to rejoin the meeting. Ms. Louser moved to waive the national portion of the salesperson examination and allow Ms. Shawn Neidecker to take the state examination. Mr. Bitz seconded. Roll call vote: ayes -- Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
V. Amanda Schrei – present on phone	salesperson	Mr. Breidenbach moved to allow Ms. Amanda Schrei to take the salesperson examination. Ms. Louser seconded. Roll call vote: ayes – Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
V. James Connell – present on phone	salesperson	Ms. Louser moved to allow Mr. James Connell to take the salesperson examination. Mr. Bitz seconded. Roll call vote: ayes – Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
VI. Paula Michel – present on phone	salesperson and waivers of pre-licensure education and national exam	Mr. Breidenbach moved to table the application from Ms. Paula Michel until she provides staff with documentation that accounts are paid in full or a payment plan is in place; and to require Ms. Michel to take the state exam but waive the national portion of the exam. Ms. Louser seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Ms. Meyer, Mr. Bitz, Ms. Louser; nays – none. Motion carried unanimously.

NDREC Meeting – February 4, 2019

NAME	LICENSE/OTHER REQUEST/S:	ACTION BY COMMISSION:
VII.A. Matthew Nelson – present in person	salesperson – reciprocal -- MN	At 1:30 p.m. Chair Cymbaluk announced that the commission was going into executive session to discuss a confidential criminal history record check pursuant to NDCC chapter 12-60. Only the commission, special assistant attorney general, staff and the applicant were present in the executive session. At 1:39 p.m. Mr. Cymbaluk closed the executive session, reconvened the open meeting, and invited the public to rejoin the meeting. Mr. Breidenbach moved to allow Mr. Matthew Nelson to be licensed after he provides staff documentation that he completed required courses and probation. Mr. Bitz seconded. Roll call vote: Roll call vote: ayes -- Mr. Cymbaluk, Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach; nays – none. Motion carried unanimously.
VII.B. Dexter Cahill – present on phone	salesperson	At 1:40 p.m. Chair Cymbaluk announced that the commission was going into executive session to discuss a confidential criminal history record check pursuant to NDCC chapter 12-60. Only the commission, special assistant attorney general, staff and the applicant were present in the executive session. At 1:45 p.m. Mr. Cymbaluk closed the executive session, reconvened the open meeting, and invited the public to rejoin the meeting. Mr. Bitz moved to allow Mr. Dexter Cahill to take the salesperson examination. Ms. Louser seconded. Roll call vote: ayes -- Ms. Meyer, Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk; nays – none. Motion carried unanimously.
VII.D. John Knosalla – present by phone	broker	At 1:45 p.m. Chair Cymbaluk announced that the commission was going into executive session to discuss a confidential criminal history record check pursuant to NDCC chapter 12-60. Only the commission, special assistant attorney general, staff and the applicant were present in the executive session. At 1:49 p.m. Mr. Cymbaluk closed the executive session, reconvened the open meeting, and invited the public to rejoin the meeting. Mr. Breidenbach moved to allow Mr. John Knosalla to take the broker examination. Ms. Louser seconded. Roll call vote: ayes -- Mr. Bitz, Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk, Ms. Meyer; nays – none. Motion carried unanimously.
VII.F. Derek Martin – present by phone	salesperson – reciprocal -- MN	At 2:03 p.m. Chair Cymbaluk announced that the commission was going into executive session to discuss a confidential criminal history record check pursuant to NDCC chapter 12-60. Only the commission, special assistant attorney general, staff and the applicant were present in the executive session. At 2:07 p.m. Chair Cymbaluk closed the executive session, reconvened the

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NAME	LICENSE/OTHER REQUEST/S:	ACTION BY COMMISSION:
		open meeting, and invited the public -to rejoin the meeting. Ms. Louser moved to deny the reciprocal salesperson application from Mr. Derek Martin. Mr. Bitz seconded. Roll call vote: ayes -- Ms. Louser, Mr. Breidenbach, Mr. Cymbaluk, Ms. Meyer, Mr. Bitz; nays – none. Motion carried unanimously.
VII.C. Cindy Hatch – present on phone	salesperson	Ms. Louser moved to allow Ms. Cindy Hatch to take the salesperson examination. The motion died and Ms. Hatch’s application is denied for lack of a second.
VII.E. Marissa Jahner – present on phone	salesperson – reciprocal -- MN	Mr. Breidenbach moved to table Ms. Marissa Jahner’s application until Ms. Jahner can provide staff with documentation that child support is paid, and the commission can review the application again at a future meeting. Ms. Louser seconded. Roll call vote: ayes -- Mr. Breidenbach, Mr. Cymbaluk, Ms. Meyer, Mr. Bitz, Ms. Louser; nays – none. Motion carried unanimously.