



North Dakota Real Estate Commission Meeting Minutes – FINAL
10:30 am, Wednesday, November 4, 2020 virtually

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Present virtually: Sandra Meyer, chair; Steven Bitz, vice chair; members: Steven Link, Tate Cymbaluk, Scott Breidenbach; Constance Hofland, special assistant attorney general; staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor. Members of the public also present virtually.

1. Call to order. Chair Ms. Sandra Meyer called the meeting to order at 10:30 a.m.
2. Roll call and determination of quorum. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all members present.
3. Review and approval of agenda. Ms. Meyer congratulated Mr. Scott Breidenbach who was recently elected district vice president of the Association of Real Estate License Law Officials (ARELLO). Ms. Meyer announced the ARELLO board granted emeritus status to Mr. Roger Cymbaluk, a past commissioner and ARELLO board member. Mr. Breidenbach and Ms. Meyer nominated Mr. Roger Cymbaluk for the distinction. Mr. Tate Cymbaluk moved to approve the agenda as presented. Mr. Steven Bitz seconded. Motion carried by unanimous voice vote. All further references to Mr. Cymbaluk in these minutes are to Mr. Tate Cymbaluk.
4. Review of license applications. See attachment for actions on all license applications.
5. Complaint 2020-07 Sophie Dame v. Patricia Schlosser. Mr. Cymbaluk moved to dismiss the complaint. Mr. Bitz seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
6. Legislation. Mr. Breidenbach moved to approve the bill draft proposing updates to NDCC 43-23 with the following additional changes:
 - 1) 43-23-04 – Commission – Compensation – Remove the change of \$100 and replace with language that allows the commission, at its annual budget meeting, to set its compensation at a rate not to exceed the daily compensation rate of legislators.
 - 2) 43-23-12 – Broker’s place of business – License of salesperson -- Add language to clarify that the license must be prominently displayed in said office or the licensee’s names and license numbers on the broker’s website.
 - 3) 43-23-13.1 – License renewal -- Change March 1st to January 15 in both places.Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
7. Update from management.
 - A. Trust account waivers. The commission received a list of recent trust account waivers for brokers and broker associates with considerations of statute and rules on whether broker associates need trust account waivers or need to sign consents to examine a trust account. Mr. Bitz moved that broker associates do not need trust account waivers or consent to examine trust accounts, based on NDCC 43-23-14.1 – Handling of funds by brokers, 43-23-06.1(5) – definition of “designated broker,” and NDAC 70-02-01-09 which addresses broker associates and specifies that they “must not at any time act

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

- independently as a broker” and instead act as a salesperson. The trust account requirements of NDAC 70-02-01-15 apply to a broker “while acting in the capacity as a broker.” Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- B. 2020-21 priorities. Mr. Steven Link moved to approve hiring Ms. Samantha Doll at \$20/hour for no more than 54 hours to assist in uploading documents to complete the priority of moving records and processes from paper to online. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- C. Contracts – lease. Mr. Breidenbach moved to accept the 5-year lease for the new office space of 1,800 square feet at 1120 College Drive, Suite 204 at \$27,900 per year, paid at \$2,325 per month, from September 1, 2020 through August 31, 2025. Mr. Cymbaluk seconded. Discussion: As part of the lease agreement, the commission paid an additional lump sum of \$50,000 for the buildout, and \$2,325 for the lease deposit. Both were paid September 15, 2020. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- Contracts – PreSort. Mr. Cymbaluk moved to approve the continuation of the contract with PreSort Plus. Mr. Link seconded. Discussion: The contract renewal is a participating addendum to the State of North Dakota Term Contract 237 for Courier Services, and was necessary because the state Office of Management and Budget updated the contract. No provisions or costs changed for the commission from the previous to the new participating addendum. Approximate total annual costs are \$1,950 and were approved in the 2020-2021 budget. Ms. Prom signed the addendum October 7, 2020. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- D. Staffing. Mr. Cymbaluk moved to approve hiring of Ms. Cieana Schneider for the fulltime, unclassified, permanent, salaried position of licensing specialist at the advertised salary of \$3,713 per month with complete State benefits. Mr. Breidenbach seconded. Discussion: Ms. Schneider will begin at a mutually agreed upon date. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- Mr. Breidenbach moved to increase the hourly rate for Ms. Colette Weber, program assistant, from \$15.50 to \$18, retroactive to September 1, 2020 when Ms. Weber assumed additional duties. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
- E. Change of address fees update. Mr. Rob Yost, CPA/accountant, shared a memo on the implementation of the change in the firm change of name or address fees from \$50 per license to a \$250 per firm flat fee. This took effect September 10, 2020. Mr. Yost estimated that 20% of firms will pay more for a firm address or name change, creating the unintended consequence of smaller firms paying more than larger firms. The initial fee change in July 2019 from \$25 to \$50 per license was to help pay for the ongoing development and maintenance of new online services for renewals and other processes for efficiency and the convenience of the licensees. Mr. Bitz moved to change the costs for change of address or name for a firm from the flat \$250 per firm of any size, to 2 tiers: \$50 per license for firms with 1 to 4 licenses, and \$250 per firm for firms with 5 or more licenses, effective immediately. Mr. Cymbaluk seconded. Roll call

vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.

- F. License application numbers. Ms. Prom shared license application numbers which show 21 more salesperson, 10 more broker, and 3 more organization license applications compared to this time last year. Six fewer firm licenses we submitted over the same time period.
- G. Renewals. Ms. Prom reported that approximately half of all licensees have submitted their license renewals.
- 8. Financial reports – September 2020. Mr. Cymbaluk moved to approve the September 2020 financial statements as presented by Mr. Yost. Mr. Link seconded. Motion carried by unanimous voice vote.
- 9. Minutes – September 10, 2020 meeting. Mr. Cymbaluk moved to approve the minutes from the September 10, 2020 meeting as presented by Ms. Prom. Mr. Link seconded. Motion carried by unanimous voice vote.
- 10. Any additional business. Ms. Jill Beck, ND REALTORS® Association, provided an update on potential bills and issues in the 2021 legislative session. NDAR is working on bill draft language to change the property condition disclosure law that took effect in 2019. The commission agreed by consensus with the recommendation from NDAR to repeal 43-23.4 – Real Estate Broker Trust Accounts, and add language in 43-23-14.1 – Handling of funds by brokers – that trust accounts should be non-interest bearing. This change and other changes already approved will be added to the bill draft.
- 11. Next meeting: Thursdays, 2021 – Jan. 14, March 11. The commission agreed by consensus to begin the meeting at 10:30 a.m. on January 14, 2021.
- 12. Adjourn. Chair Meyer adjourned the meeting at 12:54 p.m.

Attachment



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4. Review of license applications – All applicants were present virtually.

NAME	LICENSE APPLICATION OR REQUEST/S:	ACTION BY COMMISSION:
A. Summer Olsen	salesperson	Mr. Cymbaluk moved to allow Ms. Summer Olsen to take the salesperson examination, but Ms. Olsen must submit official documentation to staff that the one account is in a payment plan before staff can issue Ms. Olsen's license. Mr. Bitz seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
B. Tera Johnson	salesperson	Mr. Cymbaluk moved to approve the salesperson application from Ms. Tera Johnson. Mr. Bitz seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
C. Brett Bina	Waiver of salesperson national and state exams	Mr. Cymbaluk moved to deny Mr. Brett Bina's request for a waiver of the salesperson national and state exams. Mr. Breidenbach seconded. Discussion: Mr. Bina's application is approved, and he will be issued a test code to take the examinations. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
D. Jessica Uglen	Waiver of broker education requirement	Mr. Link moved to waive the broker education requirement for Ms. Jessica Uglen and allow her to take the broker examination. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer; nays – none. Motion carried unanimously.
E. Manuel Smith	salesperson	Mr. Cymbaluk moved to approve the salesperson application from Mr. Manuel Smith. Mr. Link seconded. Roll call vote: ayes – Mr. Cymbaluk, Mr. Link, Ms. Meyer; nays – Mr. Bitz; recused – Mr. Breidenbach. Motion carried 3-1-1.