



North Dakota Real Estate Commission Meeting Minutes – FINAL
10:15 a.m., Thursday, October 14, 2021
1120 College Dr Ste 204, Bismarck, ND 58501

www.realestatend.org

Present: Steven Bitz, chair; Steven Link, vice chair; members: Tate Cymbaluk, Scott Breidenbach, Sandra Meyer; Constance Hofland, special assistant attorney general; staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist. Members of the public also present in person and by phone.

A group photo was taken before the meeting.

1. Call to order, roll call and determination of quorum. Chair Mr. Steven Bitz called the meeting to order at 10:16 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all members present.
2. Review and approval of agenda. Mr. Tate Cymbaluk moved to approve the agenda as presented. Mr. Steven Link seconded. Motion carried by unanimous voice vote.
3. Review of applicants. See attachment for actions on all license applications.
4. Update on complaints.
 - A. 2021-05 – NDREC v. Leslie Roos. Mr. Scott Breidenbach moved that complaint 2021-05 be set for a hearing and the recommended stipulation and settlement agreement of a \$300 fine and assessment of costs can be offered. If the respondent accepts the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Ms. Sandra Meyer seconded. Discussion: The commission and Ms. Hofland discussed due process required in complaints. Ms. Hofland recommended the stipulation and settlement agreement offered be a \$300 fine and assessment of total costs, based on previous commission disciplinary actions on continuing education noncompliance. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
 - B. 2021-06 – NDREC v. Michael Galt. Mr. Cymbaluk moved that complaint 2021-06 be set for a hearing. A stipulation and settlement agreement can be offered of a \$300 fine and assessment of costs. If the respondent accepts the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
 - C. 2021-07 – NDREC v. Michelle Powers and Marisa Holman. Mr. Cymbaluk moved to that complaint 2021-07 be set for a hearing. A stipulation and settlement agreement of a \$300 fine and assessment of costs can be offered. If the respondents accept the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Mr. Breidenbach seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

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

- D. 2021-08 – NDREC v. Andrew Gudajtes and Terry Longtin. Mr. Cymbaluk moved that complaint 2021-08 be set for hearing. A stipulation and settlement agreement of a \$300 fine and an assessment of costs can be offered. If the respondents accept the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Mr. Breidenbach seconded. Discussion: In the stipulation and settlement agreement with 2 respondents, each individual respondent would be fined \$300, and would pay half of the total investigation costs for complaints. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
- E. 2021-09 – NDREC v. Tracy Braaten and Cassandra Braaten. Mr. Cymbaluk moved that complaint 2021-09 be set for hearing. A stipulation and settlement agreement can be offered with a \$300 fine for each individual respondent and actual costs assessed to the respondents. If respondents accept the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
- F. 2021-10 – NDREC v. Jeanine Larson and Maureen Bartelt. Mr. Breidenbach moved that complaint 2021-10 be set for hearing. A stipulation and settlement agreement can be offered of a \$300 fine for each individual respondent and actual costs assessed to the respondents. If the respondents accept the stipulation and settlement agreement, the commission will act on the agreement at its next meeting. Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
- G. 2021-01 – Fitz v. Heimdal – stipulation and settlement agreement. Mr. Cymbaluk moved to accept the signed stipulation and settlement agreement of a \$500 fine and assessment of costs of \$690. Ms. Meyer seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
- H. Potential new complaint. Mr. Cymbaluk moved to initiate a complaint against inactive licensee Mr. Flint Forsberg. Mr. Link seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

5. Administrative Rules – promulgation update.

Ms. Connie Hofland reviewed the timetable for rules promulgation and the complete draft changes to North Dakota Administrative Code (NDAC) Chapter 70. Ms. Hofland distributed a memo on a proposed further amendment to NDAC 70-02-04-15 -- Exemptions from continuing education requirement. The memo suggested the following changes to NDAC 70-02-04-15 in addition to the original proposed amendments (shown in gray) approved on August 12, 2021 and kept in the proposed additional changes:

A salesperson ~~applicant~~, upon successful completion of the required ~~postlicensing education requirement, evidence of which has been furnished to the commission by the salesperson applicant's broker, who completed the prerequisite ninety hours of course of study to obtain a license~~ is exempt from the continuing education requirement for ~~only the continuing education period during which the salesperson applicant successfully completed the postlicensing education~~ the first license renewal. Any broker ~~applicant~~, upon successful completion of the real estate broker licensing examination is exempt

from the continuing education requirement for only the continuing education period during which the broker applicant successfully completed said examination.

Ms. Hofland recommended that if these changes were approved, the commission also adopt a similar policy to exempt continuing education for the first renewal for new licensees to cover the time prior to the effective date of the rule – which includes the current renewal period. Ms. Meyer moved to accept the amendment to NDAC 70-02-04-15 as written, to include this amendment in the final proposed rule changes to be published for comment, and to adopt this language as policy, effective immediately, to exempt continuing education for the first renewal for new licensees to cover the time prior to the effective date of the rule. Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously. Ms. Prom will inform all brokers of this new policy.

The commission, by consensus and with input from the association, set the public hearing on the proposed rule changes for 1:30 p.m., Wednesday, December 8, 2021 at the N.D. Real Estate Commission conference room.

6. Update from management.

A. Renewals -- CE. The commission adopted the CE policy for the current renewal period as stated in 5, above.

B. 2021-2022 priorities. Ms. Prom shared the updated 2021-2022 priorities including the continuing education compliance and executive director performance standards. Ms. Meyer and Mr. Bitz will conduct a performance review of Ms. Prom for 2020-2021.

C. Trust account waivers. Ms. Prom shared a list of firms issued trust account waivers since the last meeting.

D. License application numbers. Ms. Prom shared license application numbers. Mr. Breidenbach requested the commission receive in future reports the test pass-fail rates and total active and inactive licensee numbers.

7. Financial reports – July and August 2021. Mr. Cymbaluk moved to accept the financial reports as presented. Mr. Link seconded. Motion carried by unanimous voice vote.

8. Minutes – August 12, 2021 meeting. Mr. Cymbaluk moved to approve the minutes from the August 12, 2021 meeting as presented. Mr. Breidenbach seconded. Motion carried by unanimous voice vote.

9. Other business – The next meeting is January 13, 2022 and will include the review of the comments on the proposed rules changes gathered during the public hearing and public comment period, and the topic of email addresses and advertising. Mr. Breidenbach moved to record commission meetings. Ms. Meyer seconded. Discussion: Recordings are an open record accessible to the public. There is no requirement to keep recordings after minutes are approved. The commission will discuss a retention schedule for keeping meeting minutes recordings at its next meeting. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously. The recording will begin at the next meeting. The commission agreed by consensus to discuss at its next its meeting the timing of continuing education audits in relation to renewals. Ms. Meyer moved to approve Mr. Breidenbach's request that the N.D. Real Estate Commission cover his costs to attend the National Association of Realtors annual meeting as part of his leadership position in the Association of Real Estate License Law Officials (ARELLO). Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.

The commission set other 2022 meeting dates for the following Thursdays: March 10 and June 9.

10. Adjourn. Chair Bitz adjourned the meeting at 12:36 p.m.

Attachment



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3. Review of applicants

NAME and LICENSE APPLICATIONS:	ACTION BY COMMISSION:
A. Casey O'Malley – broker – reciprocal (MN)	Mr. Link moved to approve the reciprocal broker application for Casey O'Malley. Mr. Breidenbach seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
B. Michael Williams – salesperson	Mr. Cymbaluk moved to allow Mr. Williams to take salesperson license examination. Mr. Breidenbach seconded. Discussion: The commission accepted the information presented as a sufficient payment plan. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.
C. Alexander Molander -- salesperson	Ms. Meyer moved to allow Mr. Molander to take the salesperson license examination. Mr. Cymbaluk seconded. Roll call vote: ayes – Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link, Mr. Bitz; nays – none. Motion carried unanimously.