



North Dakota Real Estate Commission Meeting
10:00 a.m., Tuesday, August 16, 2022,
1120 College Dr Ste 204, Bismarck, ND

www.realestatend.org

Present: Steven Link, chair; Tate Cymbaluk, vice chair; members: Scott Breidenbach, Sandra Meyer (via Teams online), Steven Bitz; Connie 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 Teams.

1. Call to order, roll call and determination of quorum, introductions. Chair Mr. Steven Link called the meeting to order at 10:00 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all 5 members present.
2. Review and approval of agenda. Mr. Tate Cymbaluk moved to approve the agenda with two items added to "8. Other" on the agenda: equipping the conference room for Microsoft Teams meetings, and the Attorney General's Office Professional Licensing Board Seminar October 5. Mr. Scott Breidenbach seconded. Motion carried by unanimous voice vote.
3. Review of applicants. See attachment for actions on all license applications.
4. Update on complaints.
 - A. 2022-04 – NDREC v. Scott Helphrey and Janice Hoge
 - B. 2022-05 – NDREC v. Robert Veland and Jeffrey Kaul
 - C. 2022-06 – NDREC v. Parker Pladson and Michelle Larson-Hoppe

Ms. Connie Hofland reviewed the stipulation agreements in 2022-04, 2022-05, and 2022-06 signed by all 6 respondent licensees. The commission initiated these complaints against licensees and their brokers who were found through the audit of continuing education to be noncompliant with CE requirements. Each licensee agreed to pay a \$300 fine. Licensees also will pay actual costs incurred by the Commission, split equally between the two licensees in the same complaint. Mr. Steven Bitz moved to approve the stipulation agreements in complaints 2022-04 – NDREC v. Scott Helphrey and Janice Hoge, 2022-05 -- NDREC v. Robert Veland and Jeffrey Kaul, and 2022-06 -- NDREC v. Parker Pladson and Michelle Larson-Hoppe. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously. Ms. Hofland explained that she issues a Notice of Entry of Order to the Chair to sign before these documents are sent to the respondents and Ms. Prom. The respondents have 30 days from the date of this order to pay any fines and costs.
 - D. 2022-03 – NDREC v. Sheila Kubas. Mr. Cymbaluk moved to accept the stipulation agreement with Ms. Sheila Kubas, which results in a letter of reprimand placed in Ms. Kubas' license record. Mr. Breidenbach seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - E. 2021-14 – Pearl Burroughs v. Shannon Gar. Mr. Cymbaluk moved to accept the stipulation agreement with Ms. Shannon Gar, which results in a letter of reprimand placed in Ms. Gar's license record. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz,

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

Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

- F. 2022-02 – Gregory Duchscher and Diane Duchscher v. Olivia Wellenstein. Mr. Cymbaluk moved to dismiss 2022-02 – Gregory Duchscher and Diane Duchscher v. Olivia Wellenstein. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
- G. 2021-11 – Rosalinda Garcia v. Tyler Lindell. Mr. Breidenbach moved to dismiss 2021-11 – Rosalinda Garcia v. Tyler Lindell. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Chair Link recessed the meeting at 10:57 a.m. and reconvened the meeting at 11:05 a.m.

5. Update from management.

- A. 2022-2023 priorities. Ms. Prom and Mr. Rob Yost, CPA/accountant, provided an update on priorities.
- B. Policies review. Ms. Prom, Mr. Yost and Ms. Cieana Schneider reviewed current policies with the commission and Ms. Hofland.

The commission clarified that staff include credit reports with applicants needing commission review for financial issues, but not include credit reports for applicants needing commission review for criminal history background issues.

The commission clarified that staff shall search public records, and the commission will pay for those records if there is a fee, for all nonresident applicants or applicants who have lived in other states, based on information provided in their criminal history report and license application.

The commission agreed by consensus to review current reciprocity agreements at the next meeting.

The commission discussed the process for handling proof of errors and omission insurance for firms and licensees not covered by the commission's group policy available through Rice Insurance. Ms. Hofland clarified that licenses cannot be cancelled without due process.

The commission agreed by consensus with the review of the format and process for licensees and firms to provide certification of equivalent coverage: the ACORD-25 insurance industry form is used and the form includes a notation that the insurance covers all licensees in the firm, or a list of licensees covered by the insurance is attached to the form.

Mr. Bitz moved to the following policies apply to reactivation and continuing education requirements: 1) to reactivate an inactive license, 9 CE hours are required for each year the license was inactive through December 31, 2023, not to exceed the number of hours required for the 3 CE periods prior to reactivation; and 2) to reactive an inactive license in calendar year 2024 and forward, 12 CE hours are required for 2023 and each year the license was inactive after that, plus 9 hours for each year the license was inactive before 2024, not to exceed 3 CE periods prior to reactivation. Mr. Cymbaluk seconded. Motion carried by unanimous voice vote.

Errors and omissions insurance. Ms. Hofland reviewed North Dakota Administrative Code 70-02-05-08, which states that “certification of equivalent coverage must be filed with the commission by 5 p.m. on the date of expiration of coverage. If the certification is not filed on time, the commission shall place the license on inactive status on that date.” In 70-02-05-12, it states “A licensee whose license is placed on inactive status for failure to provide proof of insurance may not conduct any activities for which a license is required until proof of insurance has been provided to the commission and the license has been activated. The license shall be considered active as of the effective date of insurance.”

The commission agreed by consensus that if staff inactivate a licensee or firm due to expiration of coverage, staff will reactivate when certification requirements are met, but also report the affected licensees or firms to the commission at the next regularly scheduled meeting.

Branch licenses – The commission discussed that NDAC 70-02-01-11 requires a branch to be licensed, and North Dakota Century Code 43-23-12 requires the designated broker to have a duplicate license for that branch, whether displayed in the branch or on the broker’s website. Staff will assure that designate brokers have duplicate licenses for all branches.

Mr. Breidenbach moved to approve all policies as reviewed and updated. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

- C. Fees list. This list was provided for information and in preparation for a discussion as part of the 2023-2024 budget process.
- D. CE—next year mandatory. The commission received suggestions for mandatory CE topics for the next CE cycle from the North Dakota Association of Realtors and Lenee Bookhardt, the NDAR 2023 professional development chair. NDAR Professional Development Committee recommended mandatory 3-hour class/es on the NDREC administrative rule changes and/or contract law, and an additional mandatory 3 hours on a relevant broker topic chosen by the commission. The commission discussed how the NDREC rules could be presented and by whom, as a stand-alone course or as part of a course on contract law. The commission also discussed the availability of broker-level continuing education. The commission agreed by consensus to table the decision on mandatory continuing education until the next commission meeting, scheduled for October. Ms. Prom provided a history of mandatory topics since 2018.

- E. E&O rate – 2023. Mr. Cymbaluk moved to have Ms. Prom sign the renewal of the group errors and omissions insurance program with Rice Insurance Services Center at the same premium rate of \$187 per licensee, for January 1, 2023 through January 1, 2024, and at the same terms provided by the current agreement as required by NDAC 70-02-05-03 -- \$100,000 single-limit per licensee per occurrence or claim, \$500,000 aggregate limit per licensee, \$1,000 damages deductible and \$1,000 claim expenses deductible). Mr. Breidenbach seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - F. Law books. Mr. Breidenbach moved to have 400 law books printed and that a book be mailed to each designated broker. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - G. Office audit. The office audit is scheduled to begin the week of September 19, 2022.
 - H. Trust account waivers. Ms. Prom provided a list of trust account waivers issued since the last commission meeting.
 - I. Trust account audits. Mr. Yost reviewed findings from ongoing and recently completed trust account audits. The commission took no action.
 - J. Office closed Sept. 2, 2022. The commission office will be closed September 2, 2022, which is the Friday before Labor Day.
 - K. License numbers. Ms. Prom shared license application numbers for current year and 3 prior years.
6. Financial reports – May to June 2022. Mr. Yost presented the financial reports. Mr. Cymbaluk moved to approve the financial reports. Mr. Breidenbach seconded. Motion carried by unanimous voice vote.
7. Minutes – June 9, 2022. Mr. Cymbaluk moved to approve the minutes from the June 9, 2022 meeting as presented. Mr. Breidenbach seconded. Motion carried by unanimous voice vote.
8. Other. The commission discussed the Professional Licensing Board Seminar scheduled October 5, 2022 at the capitol in Bismarck. Participants can also join the seminar virtually. Commissions must notify Ms. Prom by Sept. 15 to RSVP. Ms. Prom will submit the RSVP for all commissioners and staff who will participate in person or virtually.
- Microsoft Teams-related equipment proposal. Ms. Prom presented a proposal from AVI Systems Inc. to equip the conference room for Microsoft Teams meetings. Mr. Bitz moved to accept the proposal from AVI Systems Inc. for \$8,155 for a 75-inch display, wall mount, camera, microphone and touch control, plus installation and maintenance which includes advanced replacement by hardware, software updates, and phone support. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
- Next meeting. The commission agreed by consensus to change their next regularly scheduled meeting from October 13, 2022 to 8:30 a.m., Thursday, October 6, 2022 in the NDREC conference room, provided Ms. Hofland is available. This is the day after the Professional Licensing Board Seminar. Otherwise, the meeting will remain on the original date of October 13.
- Adjourn. Mr. Cymbaluk moved to adjourn. Chair Link adjourned the meeting at 12:24 p.m.
- Attachment



North Dakota Real Estate Commission Meeting Minutes – FINAL
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3. Review of applicants

NAME and LICENSE APPLICATIONS:	ACTION BY COMMISSION:
A. Devon Westerlund – salesperson – reciprocal –MN -- on phone	Mr. Cymbaluk moved to deny the reciprocal salesperson license application for Devon Westerlund. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Cymbaluk, Mr. Link; nays – Mr. Breidenbach. Motion carried 4-1. Ms. Prom explained that a denied applicant can appeal and that Ms. Cieana Schneider will contact Mr. Westerlund on the appeal process.
B. Miguel Marquez – salesperson – on phone	Mr. Breidenbach moved to allow Mr. Marquez to sit for the salesperson examination and that he provide documents to staff showing he is current in child support payments in Texas. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
C. Daria Anderson – salesperson – in person	Mr. Breidenbach moved to allow Ms. Daria Anderson to sit for the salesperson examination. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
D. Amanda Leishman – salesperson – on phone	Mr. Cymbaluk moved to allow Ms. Amanda Leishman to sit for the examination. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.