

North Dakota Real Estate Commission
May 9, 2002
Missouri River Room, State Capital Building
Bismarck, ND
10:00 AM Central Time

Present: Robert Willer/Chair, Diane Louser/Vice Chair, Kris Sheridan/Member, Jerry Youngberg/Member, Roger Cymbaluk/Member, David Reich/Legal Counsel, Patricia Jergenson/Secretary Treasurer

1. HEARING IN THE MATTER OF NORTH DAKOTA REAL ESTATE COMMISSION VS. GARY KRAMLICH (Case #2001-8) Chair Robert Willer called the meeting to order and turned it over to Allen Hoberg, Administrative Law Judge with the Office of Administrative Hearings, to conduct the hearing. A public hearing was held based upon a formal complaint originally filed with the Commission by Bruce R. Henderson of Bottineau, North Dakota regarding Gary Kramlich, a licensed real estate broker in Minot, North Dakota. David Reich, Special Assistant Attorney General for the North Dakota Real Estate Commission, represented the Commission. Robert W. Palda represented Gary Kramlich.

The hearing opened with David Reich questioning Gary Kramlich regarding the Lease with Option to Purchase between Mr. and Mrs. McQuarrie and Mr. & Mrs. Bacskay and the steps in the process of the Bacskays then selling the property a year later. Mr. Kramlich testified that the Bacskays had equitable ownership in the property and therefore had the right to sell the property without first notifying the McQuarries and exercising the option to purchase. Rod McQuarrie testified, via conference call, that it was his understanding that the Bacskays had no ownership in the property during the term of the lease and that both he and his wife were surprised when they were informed that the house was up for sale. Michelle McQuarrie also testified via conference call. Mrs. McQuarrie testified that Mr. Kramlich had told her and her father that the Bacskays had the right to sell the house and offered an additional \$1200 to Mrs. McQuarrie to cover the cost of airline tickets if the McQuarries would allow the sale of the home to the Bahrs to close.

Robert Palda called upon Gary Bacskay. Mr. Bacskay testified that he and his wife were very happy with Gary Kramlich as their real estate agent and the manner in which he represented them in this transaction.

Mr. Palda then called upon Mr. Mike Ward. Mr. Ward testified that he has seen many transactions such as this but that he had not reviewed the Lease with Option to Purchase used in this transaction.

The hearing concluded with closing arguments by David Reich on behalf of the North Dakota Real Estate Commission and by Robert Palda on behalf of Gary Kramlich. Due to the fact that the Commission had a scheduled appearance on their agenda a decision regarding this hearing will be made at a later time during the Commission meeting. Allen Hoberg closed the hearing at approximately 1:35 PM and turned the meeting back over to Chair Robert Willer. A short recess was called. Chair Robert Willer called the meeting back to order at 1:45 PM.

2. APPEARANCE BY KEN LANG REGARDING LICENSE TESTING. Ken Lang appeared before the Commissioners to request a waiver of the rule requiring a waiting period of 12 months if the license examination has been failed three times. Mr. Lang stated several reasons why he felt he should be allowed to take the exam again, preferably a written exam. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to allow Mr. Lang to take the examination again and if he does not pass this time he must wait 12 months pursuant to the rules. Discussion. Motion failed. AMP will be contacted for the policy and procedures involved regarding the post test evaluation and what is done when a person taking the test responds on the evaluation that there is a problem with the computer.
3. APPROVE MINUTES OF PREVIOUS MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the minutes of February 28, 2002. Motion carried.
4. APPROVE FINANCIAL REPORT. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the March 2002 financial report. Motion Carried.
5. REVIEW FORMAL COMPLAINT CASE 2002-01 – Randy Peterson vs. Larry D. Hayes. The Commission reviewed a formal complaint filed by Randy Peterson alleging that Larry Hayes, a real estate licensee, violated certain unspecified regulations governing real estate licensees and that Mr. Hayes was guilty of fraud, misrepresentation and theft regarding certain property. The investigation in this matter revealed that the alleged actions taken by Larry Hayes were not actions over which the Commission has jurisdiction. Commissioner Youngberg moved, seconded by Commissioner Sheridan to dismiss this complaint based upon the results of the investigation. Motion carried.
6. REVIEW MATTERS INVOLVING DANIEL RINGUETTE. The Commission reviewed a letter from the Minot Multiple Listing regarding advertisements on the internet by Daniel Ringuette during the period of his license suspension. Subsequent investigation by legal counsel and staff verified that even after Mr. Ringuette received a letter from Pat Jergenson he continued to hold himself out as a licensed real estate agent

on the internet. Commissioner Sheridan moved, seconded by Commissioner Youngberg to initiate a complaint and set this matter for a hearing. Motion carried. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to authorize David Reich to file an injunction against Mr. Ringuette to postpone the reissuing of his real estate license at the end of his license suspension due to the violation of the conditions of his license suspension. Motion carried.

7. ATTORNEY GENERAL OPINION ON METH LABS. David Reich noted that he is waiting for a response from NDAR legal counsel Casey Chapman regarding the Attorney General's opinion on disclosure of meth labs.
8. DECISION INVOLVING THE HEARING IN THE MATTER OF ND REAL ESTATE COMMISSION VS GARY KRAMLICH (Case # 2001-08) heard this morning. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg that a letter of reprimand be issued to Gary Kramlich and a \$1000 monetary fine be assessed. Motion carried.
9. LEGISLATIVE ISSUES TO BE ADDRESSED. Claus Lembke, NDAR EVP noted that his association was willing to consider support of the following issues in the upcoming Legislative session and future rules changes: fee, fine and sanction increases, require new licensees to attend required courses within the first 12 months of having been licensed, and changes to 70-02-01-02. Application for license, 70-02-01-03. Examinations, 70-02-01-05. Inactive licensees to bring them in line with previous changes.
10. REQUEST FROM NDAR FOR CONTINUING EDUCATION APPROVAL FEE. Claus Lembke, NDAR EVP asked the Commission to waive the \$50.00 course approval application fee for the 10 Computaught online courses NDAR has submitted stating that these courses are ARELLO certified and there have been no substantive changes since there were first submitted for approval in 2000. Commissioner Sheridan moved, seconded by Commissioner Youngberg that in the event an online course is ARELLO certified and has been submitted to and approved by the Real Estate Commission, the provider may resubmit the online course for approval every two years and pay the course approval fee one time unless there has been a substantive change. Motion carried subject to review of the rules.
11. POLICY REGARDING PERSONAL ASSISTANTS. Staff was asked to merge the Commission's current policy regarding personal assistants with that of the Nebraska Real Estate Commission and have it reviewed by the Commissioners, Dave Reich, and NDAR's legal counsel. Once completed the policy will be published in the newsletter.
12. OTHER BUSINESS:
 - a) a question had been posed regarding IDX advertising. Commissioners noted that the law was not being violated and if there were other concerns they would be of a local board nature.
 - b) A bill for 2002-2003 ARELLO dues in the amount of \$410.00 was presented for approval. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve payment of the ARELLO dues in the next budget.

- c.) Payment of vacation compensation to Dennis Schulz was discussed. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the vacation and sick pay for Dennis Schulz and authorize Chair Willer to find the appropriate way to make payment. Motion carried.
- d.) The ARELLO Central/Western District Meeting will be July 14-16, 2002. Dennis Schulz will be receiving an award at this conference. The budget for 2002-2003 should reflect an allocation to pay expenses for Mr. Schulz to travel to Rapid City, SD and 1 night's lodging. Secretary Treasurer Jergenson is also to go to this conference.
- e.) A request by an instructor for the outline of the IVN course was discussed. The outline is owned by UND and the person making the request will be asked to call UND.
- f.) Staff asked for direction in some office procedures such as mailing of agendas, minutes, financial statements, keeping information in the Commissioners' notebooks, etc. One notebook will be maintained for reference purposes, Commissioners will receive the information for each meeting by mail and bring it with them to the meetings and email will be used whenever practical and possible.
- g.) It was the consensus of the Commissioners to approve Secretary Treasurer Jergenson's request for permission to represent the North Dakota Real Estate Commission on the committees and Boards she currently serves on.
- h.) Commissioners will look at changing the job title of Secretary Treasurer to Executive Director.
- i.) The retirement reception for Dennis Schulz was discussed.

Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to adjourn the meeting. Motion carried.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer