

AGENDA FOR TEXAS REAL ESTATE COMMISSION (TREC) MEETING

Conference Room 235, TREC Headquarters Office
1101 Camino La Costa, Austin, Texas

October 8, 2007, 9:00 a.m.

CALL TO ORDER

1. Call to order and pledge of allegiance
 - Done at 9:00 am

MINUTES

2. Minutes of August 6, 2007 Commission meeting
3. Recognition of former Commission members Louise Hull and Paul Jordan
 - Done

STAFF AND COMMITTEE REPORTS

4. Staff reports; committee reports
 - Done

PUBLIC COMMENTS

5. General comments from visitors
 - Jay Fuller, an HI from Palestine started to speak but was asked by the TREC chairman, J. Walton, to wait till the Inspection portion of the meeting.
 - Voice recordings of this section are available.

EXECUTIVE SESSION

6. Executive session to discuss pending litigation pursuant to Texas Government Code §551.071 and if necessary, to receive legal advice from general counsel on posted agenda items

POSSIBLE ACTION ON MATTERS FROM EXECUTIVE SESSION

7. Discussion and possible action to authorize payments from recovery funds or take other action on items considered in executive session

EMERGENCY RULES

8. Discussion and possible action to adopt emergency amendments to 22 TAC §535.51 concerning General Requirements
9. Discussion and possible action to adopt emergency amendments to 22 TAC §535.212 concerning Education and Experience Requirements for an Inspector License
 - Loretta Dehay, TREC General Counsel, explained the current Professional Inspector Fast Track Education and Experience Rule proposal.
 - Current staff proposal is 128 Core hours + 200 Additional Education hours + 120 Education hours module or 120 hours Ride-Along or 5 years applicable experience.
 - Approximately 20 Inspectors lined up to speak and were admonished by Mr. Walton to keep the comments professional and to limit speaking time to 2 minutes each.

- Here are some of the notable comments made by some of the inspectors:
 - I agree with 99% of the proposed rule but would suggest allowing more than 2 student inspectors to ride-along with a Professional Inspector if that inspector is an approved TREC Instructor – Larry Foster
 - I'm concerned about the reduction of the 320 hours of pure education to 200 and supports the idea that the 120 Education/Experience module be in addition to the 320 for a total of 568 hours (128+200+120+120) – Jay Fuller representing TAREI
 - Concerned that current students are really adequately protected under the latest proposal and that they will be able to obtain their license come January – Richard Whitsett representing Kaplan Schools.
 - There are not enough inspectors currently and the existing Fast Track inspectors are not worse inspectors than others – Fred Willcox
 - We need more inspectors like we need more Realtors. Feels Education proposals are self-serving of the schools. – Jim Hemsell
 - The only way to find education is correspondence now. Few, if any, schools provide the full curriculum – Gary Loughman
 - Loretta Dehay recommended removing any reference to "classroom" in the proposed rule to ensure correspondence was acceptable.
 - Current inspectors don't know how to talk to Realtors or their clients – Frank Condor
 - Complains that the new education requirements have not been properly communicated to the education providers. Said an internal study found only 2 out of 1,000 inspectors might be willing to provide ride-alongs. – Rita SantaMaria representing Champions Schools
 - Does not support any lessening of Inspector education requirements – Mike Cothron representing Houston TAREI
 - Schools don't need another 120 hours, that requirement is too much – Brian Harpre representing Real Estate Academy
 - Wants an explanation as to how the commission determined that 120 hours of education equates to 5 years experience – Rob Lamontaine

- The Proposed Rule with the minor modifications, i.e. remove "classroom" reference, was accepted by the commission. It now goes to posting at the Texas Register for public comment. Then, pending no issues would be up for final adoption at the December 2007 TREC meeting.
- Voice recordings of this section are available.

RULES TO PROPOSE

10. Discussion and possible action to propose amendments to existing rules or propose new rules as follows:

- a. 22 TAC Chapter 533 concerning Practice and Procedure
- b. 22 TAC §535.42 concerning Jurisdiction and Authority
- c. 22 TAC §535.51 concerning General Requirements
- d. 22 TAC Chapter 535, Subchapter F concerning Education, Experience, Educational Programs, Time Periods and Types of License (§§535.61-535.65)
- e. 22 TAC Chapter 535 Subchapter G concerning Mandatory Continuing Education (§§535.71 and 535.72)
- f. 22 TAC Chapter 535 Subchapter I concerning Licenses (§§535.91, 535.92, and 535.94)
- g. 22 TAC Chapter 535, Subchapter Q concerning Administrative Penalties
- h. 22 TAC Chapter 535, Subchapter R concerning Home Inspectors
 - Numerous Inspectors lined up to talk against E&O and Chairman Walton again admonished the speakers to stay on topic and be brief and not repeat prior speaker's comments.
 - He also explained, again, that TREC can only enforce the law as mandated by the legislature.
 - Notable comments included:
 - The commission has the ability to interpret the law as they see fit and have interpreted it to mean E&O but that is not necessarily accurate and they should not be enforcing anything until the AG rules or the issue is sent back to the legislature as unenforceable. – Jim Hemsell
 - As a business owner I like the new law. This will help weed out the weak, infirm or new inspector resulting in less competition – Gordon Fox
 - No insurance currently available in Texas meets the E&O requirements – Joe Gonzalez
 - Loretta Dehay advised modifying the TREC E&O form required for license renewal to remove the reference to "property damage or bodily injury" since those are not E&O coverages but rather General Liability coverages.
 - Commissioner Arriaga expressed an understanding of the issue of Inspector E&O and recommended the TREC rule be modified to allow insurance products other than E&O that would protect against violations of Subchapter G be allowed if there is such a product. This was seconded and approved. (In my opinion, while a nice gesture, this is meaningless at this point).
 - Voice recordings of this section are available.

i. 22 TAC Chapter 537, Professional Agreement and Standard Contracts

j. 22 TAC Chapter 539, Subchapter O concerning Administrative Penalties

11. Discussion and possible action to propose the repeal of:

a. 22 TAC Chapter 533 Practice and Procedure (§§533.31 - 533.39)

b. 22 TAC §535.209 concerning Professional Inspector Corporations and Limited Liability Companies.

RULES TO ADOPT

12. Discussion and possible action to adopt amendments to 22 TAC §535.101 concerning Fees

PENDING MATTERS

13. Update on TREC's request for an attorney general opinion about SB 914's requirements for home inspector liability insurance
 - [No news from the AG per Loretta Dehay](#)
14. Discussion and possible action to make appointments to Broker Lawyer Committee
15. Discussion and possible action to establish a procedure to create an inspector advisory committee and/or make appointments thereto
 - [Discussed and voted on 3 new public members and 6 Inspectors to serve on the new Inspectors Advisory Committee.](#)
 - [New public members are:](#)
 - [Wayne Burgess](#)
 - [Mary Wheeler](#)
 - [Jill Frankl](#)
 - [Inspector members are:](#)
 - [Larry Foster \(selected as temporary chairman\)](#)
 - [Fred Willcox](#)
 - [Curtis Carr](#)
 - [Brian Murphy](#)
 - [Ray Armendariz](#)
 - [Brad Phillips](#)

NEW BUSINESS

16. Discussion and possible action to approve the revised required Legal Update and Legal Ethics Courses
17. Discussion and possible action to approve annual internal audit report
18. Annual review of fees and estimated revenues
19. Discussion and possible action to approve fiscal year 2008 operating budget
20. Discussion and possible action to authorize Tim Irvine to approve expenditures
21. Discussion and possible action regarding a resolution authorizing the Administrator or Assistant Administrator to enter into a Memorandum of Understanding with the Texas Appraiser Licensing Board
22. Discussion and possible action to amend previously adopted policy regarding administrative penalties and other disciplinary action for unlicensed activity

COMPLAINT MATTERS

23. Consideration of complaint information concerning: Joe William Ferguson, Tim Martin Knabe, Zehra Ahmed, James Edward Polk, Jr., John Lewis Guess, John Anthony Henry, Cheri Lynn Hollomon, Arturo Torre, Sylvia Ann Martinez

CONTESTED CASES

24. Motion for Rehearing in the Matter of George Limon Alejos
25. Motion for Rehearing in the Matter of Gerald Page Brockman
26. Motion for Rehearing in the Matter of Larry Wayne Brook, Jr.
27. Entry of orders in contested cases
28. Schedule future meetings and adjourn