



REAL ESTATE EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
December 3, 2015

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of the Minutes of October 15, 2015 (4-7)

C. Administrative Matters

1. Staff Updates
2. Board Member – Term Expiration Date
 - a. Stephen Beers – 07/01/2014
 - b. Marie Hetzer – 07/01/2016
 - c. Kitty Jedwabny – 07/01/2017
 - d. Michael Mulleady – 07/01/2018
 - e. Brian McGrath – 07/01/2018
 - f. Dennis Pierce – 07/01/2013
 - g. Randal Savaglio – 07/01/2017

D. Legislative/Administrative Rule Matters (8-11)

1. REEB 24 Relating to Felony as Grounds for Revocation
2. REEB 12 and 25 Update
3. Update on Legislation and Pending or Possible Rulemaking Projects

E. Real Estate Contractual Forms Advisory Council Update

F. Credentialing Matters

G. Education and Examination Matters

H. Discussion and Consideration of Items Received After Preparation of the Agenda:

1. Introductions, Announcements and Recognition
2. Election of Board Officers
3. Appointment of Board Liaison(s)
4. Administrative Updates
5. Education and Examination Matters
6. Credentialing Matters
7. Practice Matters

8. Legislation/Administrative Rule Matters
9. Liaison Report(s)
10. Informational Items
11. Disciplinary Matters
12. Requests for Disciplinary Proceeding Presentations
13. Motions
14. Petitions
15. Appearances from Requests Received or Renewed
16. Speaking Engagement(s), Travel, or Public Relation Request(s)

I. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

J. Presentation and Deliberation Division of Legal Services and Compliance (DLSC) Matters

1. Administrative Warning(s)

- a. 13 REB 113 - N.C.S. **(12-13)**
- b. 14 REB 132 - R.E.S.J. **(14-15)**
- c. 14 REB 143 - S.L. **(16-17)**
- d. 14 REB 151 - J.E.M. **(18-19)**

2. Proposed Stipulation(s), Final Decision(s), and Order(s)

- a. 13 REB 113 – Paul G.Stevens and MadisonFlatFeeHomes.Com, LLC **(20-25)**
- b. 13 REB 091 and 13 REB 093 – Dean Webb and Everest Realty Group, LLC **(26-31)**
- c. 14 REB 018 – William Eiseman and Realty Associates Inc. **(32-38)**
- d. 14 REB 074 – Robert L. Worth and R W Realty, Inc. **(39-45)**
- e. 14 REB 112 – Matthew A. Krasowski and Contemporary Real Estate Services, LLC **(46-53)**
- f. 14 REB 113 – LaVon M. Jensen and LMJ Associates, Inc. **(54-61)**
- g. 14 REB 134 – John W. Torgerson **(62-69)**

3. Monitoring

- a. Jason DeNoble – Requesting Full Unrestricted License **(70-82)**

4. Case Closing(s)

- a. 13 REB 042 – M.R. **(83-86)**
- b. 13 REB 091 and 13 REB 093 – Q.E.I., M.T.P., and M.D.R. **(87-93)**
- c. 14 REB 120 – J.S. and P.C.R. **(94-97)**
- d. 14 REB 151 – M.W. and H.A.W.L.L.C. **(98-102)**
- e. 14 REB 155 – A.E., M.R., and R.S.C.W. **(103-107)**
- f. 14 REB 160 – J.L.E., R.S.I., and G.G.K. **(108-111)**
- g. 15 REB 014 – J.M.A. **(112-114)**
- h. 15 REB 056 – N.S., C.O., and R.E.F. **(115-118)**
- i. 15 REB 067 – D.C., and C.M.I. **(119-122)**

K. Presentation and Deliberation on Credentialing Matters

1. Conviction Review **(123-170)**

L. Presentation and Deliberation on Proposed Final Decision and Order(s)

1. Mark H Pierce, Respondent (DHA case # SPS-15-0069)(DLSC case # 13 REB 042) **(171-179)**

M. Presentation and Deliberation on Order(s) Fixing Costs

1. Harvey J. Goldstein, Respondent (ORDER0003769)(DHA case # SPS-15-0027)(DLSC case # 15 REB 002) **(180-187)**

N. Deliberation of Items Received After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Professional Assistance Procedure (PAP)
5. Monitoring Matters
6. Petitions for Summary Suspension(s)
7. Proposed Stipulation(s), Final Decision(s) and Order(s)
8. Administrative Warning(s)
9. Review of Administrative Warning(s)
10. Proposed Final Decisions and Orders
11. Orders Fixing Costs/Matters Related to Costs
12. Case Closings

O. Consulting with Legal Counsel

REONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

**REAL ESTATE EXAMINING BOARD
MEETING MINUTES
OCTOBER 15, 2015**

PRESENT: Stephen Beers, Marie Hetzer, Michael Mulleady, Randal Savaglio, Dennis Pierce, Brian McGrath (*via phone, joined the meeting at 10:21 a.m.*)

EXCUSED: Kitty Jedwabny

STAFF: Brittany Lewin - Executive Director; Nilajah Hardin - Bureau Assistant; Sharon Henes - Administrative Rules Coordinator; and Other Department Staff

CALL TO ORDER

Stephen Beers, Chair, called the meeting to order at 10:03 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- *Closed Session Item H. "Presentation and Deliberation on Proposed Stipulations, Final Decision and Orders" corrected to read "Presentation and Deliberation on Proposed Final Decisions and Orders"*

MOTION: Michael Mulleady moved, seconded by Dennis Pierce, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF THE MINUTES OF AUGUST 13, 2015

MOTION: Marie Hetzer moved, seconded by Randal Savaglio, to approve the minutes of August 13, 2015 as published. Motion carried unanimously.

LEGISLATION AND ADMINISTRATIVE RULE MATTERS

Withdraw CR 15-026 Relating to Cooperative Broker Agreements

MOTION: Michael Mulleady moved, seconded by Marie Hetzer, that it is the Board's intention to not promulgate CR 15-026 relating to Cooperative Broker Agreements and to authorize DSPS Staff to notify Clearinghouse and the presiding officer of each house of the legislature. Motion carried unanimously.

CLOSED SESSION

MOTION: Randal Savaglio moved seconded by Dennis Pierce, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Stephen Beers read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Stephen Beers-yes; Marie Hetzer-yes; Michael Mulleady-yes; Dennis Pierce-yes; Randal Savaglio-yes. Motion carried unanimously.

The meeting reconvened into closed session at 10:18 a.m.

RECONVENE TO OPEN SESSION

MOTION: Michael Mulleady moved, seconded by Randal Savaglio, to reconvene into open session. Motion carried unanimously.

The meeting reconvened into open session at 10:28 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Randal Savaglio moved, seconded by Brian McGrath, to affirm all votes made in Closed Session. Motion carried unanimously.

PROPOSED FINAL DECISIONS AND ORDERS

Brian McGrath joined the meeting at 10:21 a.m.

Harvey J. Goldstein, Respondent (DHA case # SPS-15-0027)(DLSC case # 15 REB 002)

MOTION: Dennis Pierce moved, seconded by Michael Mulleady, to adopt the Findings of Fact, Conclusions of Law, and Proposed Decision and Order in the matter of disciplinary proceedings against Harvey J. Goldstein, Respondent (DHA case number SPS-SPS-15-0027)(DLSC case number 15 REB 002). Motion carried. Recused: Stephen Beers

(Stephen Beers recused himself for deliberation, and voting in the matter of Harvey J. Goldstein, Respondent (DHA case number SPS-SPS-15-0027)(DLSC case number 15 REB 002).)

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

13 REB 058 and 14 REB 033 – Malico K. Watson and Orange Ave. Realtors, LLC

MOTION: Michael Mulleady moved, seconded by Marie Hetzer, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Malic K. Watson and Orange Ave. Realtors, LLC., DLSC case number 13 REB 058 and 14 REB 033. Motion carried unanimously.

14 REB 034 – Glena D. Kojis and Kivley, LLC

MOTION: Michael Mulleady moved, seconded by Dennis Pierce, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Glena D. Kojis and Kivley, LLC, DLSC case number 14 REB 034. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

14 REB 069 (R.J.B.J.)

MOTION: Randal Savaglio moved, seconded by Marie Hetzer, to issue an Administrative Warning in the matter of DLSC case number 14 REB 069 (R.J.B.J.). Motion carried unanimously.

CASE CLOSINGS

MOTION: Marie Hetzer moved, seconded by Michael Mulleady, to close the following cases for the reasons outlined below:

1. 13 REB 056 (T.R.E.G., J.A.B.) – No Violation (NV)
2. 14 REB 034 (M.S.K.) – Prosecutorial Discretion (P1)
3. 14 REB 036 - Prosecutorial Discretion (P3)
4. 14 REB 046 – Prosecutorial Discretion (P3)
5. 14 REB 062 – Prosecutorial Discretion (P3)
6. 14 REB 069 (B.R.E.I.) – Prosecutorial Discretion (P7)
7. 14 REB 111 – Insufficient Evidence (IE)
8. 14 REB 123 – Insufficient Evidence (IE)

Motion carried unanimously.

14 REB 053

MOTION: Randal Savaglio moved, seconded by Dennis Pierce, to close DLSC case number 14 REB 053 for No Violation (NV). Motion carried. Recused: Marie Hetzer

(Marie Hetzer recused herself for deliberation, and voting in the matter of 14 REB 053.)

ADJOURNMENT

MOTION: Randal Savaglio moved, seconded by Michael Mulleady, to adjourn the meeting.
Motion carried unanimously.

The meeting adjourned at 10:34 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 19 November 2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 3 December 2015	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. REEB 24 Relating to Felony as Grounds for Revocation 2. Update on Pending Legislation and Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		<i>19 November 2015</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 15-051)

ORDER

An order of the Real Estate Examining Board to create REEB 24.17 (2m), relating to revocation due to felony conviction.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 452.14 (3) (p), Stats.

Statutory authority: ss. 15.08 (5) (b) and 452.07 (1), Stats.

Explanation of agency authority:

The Real Estate Examining Board shall promulgate rules for the guidance of the profession to which it pertains, and define and enforce professional conduct and unethical practices relating to the profession. [s. 15.08 (5) (b), Stats.]

The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice. [s. 452.07 (1), Stats.]

Related statute or rule: N/A

Plain language analysis:

The board has the authority under s. 15.08 (5) (b), Stats., to “define and enforce professional conduct and unethical practices” for the profession. However, under Wisconsin law, a person generally may not face employment consequences on the basis of an arrest or conviction record unless the circumstances of the crime are substantially related to the circumstances of the particular job or licensed activity. [s. 111.335, Stats.] Under its authority and within the statutory employment discrimination parameters, the board previously promulgated s. REEB 24. 17 (1) and (2), stating that licensees may be subject to discipline for any violation of the law or criminal conviction as long as the circumstances of the violation or conviction are substantially related to real estate practice. The board did not, however, possess the authority to promulgate a rule allowing the discipline of licensees on the basis of a crime if the circumstances of the crime were not substantially related to real estate practice.

2013 Wisconsin Act 288 (Act 288) specifically created an exception to the general employment discrimination statute by prohibiting the board from issuing a license to a person who has been convicted of a felony. [s. 452.25, Stats.] Act 288 also specifically gave the board the authority to revoke, suspend or limit a person's real estate license if the person is convicted of a felony that would bar licensure. [s. 452.14 (3) (p), Stats.] Therefore, under Act 288, the board may revoke a license on the basis of a felony conviction, whether or not the crime is substantially related to real estate practice, without violating Wisconsin's employment discrimination law.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: The Department may refuse to issue or renew a license, or may place on probation, suspend or revoke any license based upon the conviction of or plea of guilty or plea of nolo contendere to a felony.

Iowa: The licensing board may revoke or suspend a license for a conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Michigan: Michigan does not list a felony conviction as a basis for revocation.

Minnesota: Minnesota does not list a felony conviction as a basis for revocation.

Summary of factual data and analytical methodologies:

The Board incorporated the new basis for revocation into the conduct and ethical practices chapter of the rules.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

This rule was posted for 14 days for economic comments and none were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. REEB 24.17 (2m) is created to read:

REEB 24.17 (2m) FELONY CONVICTION. The board may revoke a license or registration on the basis of a conviction of a felony that is a bar to licensure or registration under s. 452.25 (1) (a), Stats.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Signature _____

Chair
Real Estate Examining Board