

**REAL ESTATE BOARD
MINUTES
JUNE 25, 2009**

- PRESENT:** Stephen Beers, Peter Sveum, Robert Dueholm, Kenneth Lee, and Lisabeth Weirich
- EXCUSED:** Dennis Pierce
- ABSENT:** Ryan Schroeder
- STAFF PRESENT:** Yolanda McGowan, Bureau Director; Peggy Wichmann, Legal Counsel; Kimberly Wood, Bureau Assistant; and other DRL staff
- GUESTS:** Anne Blood, MATC – Madison; Kevin King, Wisconsin Realtors Association (WRA); Cori Lamont, WRA

CALL TO ORDER

Peter Sveum, Chair, called the meeting to order at 10:05 a.m. A quorum of five (5) members was present.

ADOPTION OF AGENDA

Amendments to the Agenda:

- After Item “D” (open session) Add: Presentation of Petition for Summary Suspension In the Matter of Disciplinary Proceedings Against Michael H. Granger – 09 REB 021
- After Item “V” (closed session) Under “Deliberation on Disciplinary Proceedings or any Received After the Mailing of the Agenda” – Add: Deliberation of Petition for Summary Suspension in the Matter of Disciplinary Proceedings Against Michael H. Granger – 09 REB 021
- Top of Page 1: Correction to Screening Committee deleting the names “Ryan Schroeder and Stephen Beers” replacing them with “Robert Dueholm, Kenneth Lee and Peter Sveum”

MOTION: Stephen Beers moved, seconded by Robert Dueholm, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES (APRIL 30, 2009)

MOTION: Stephen Beers moved, seconded by Robert Dueholm, to approve the minutes of April 30, 2009 as published. Motion carried unanimously.

ADMINISTRATIVE REPORT YOLANDA MCGOWAN, BUREAU DIRECTOR

Department Updates

In response to ongoing problems with meeting recordings Yolanda McGowan requested that members of the Board, and visitors attending today's meeting, power off cell phones, blackberries and pager as the signals sent from these reports interfere with the digital recording equipment used to record the open session portions of the meeting. She added that the microphones on the meeting table should be kept clear and requested those that speak do so in a fashion that they can be heard clearly.

Yolanda McGowan provided the following Department updates to the Board:

- **E-credentials:** The Board was advised that the Department is discontinuing the issuance of paper certificates. Instead the Department will send an e-mail to individuals when their renewal processing is complete. This e-mail will provide information on how to access an electronic certificate that the credential holder can print out. The e-credential would allow credential holders to create duplicate licenses without having to pay the \$10 fee associated with reproduction of a license. Also noted was the allowance for individuals to request that a paper renewal be mailed in the scenario where their ability to renew online is affected or if they have no means to print their credential.
- **DRLink:** It was announced that the Department's newsletter "DRLink" is now on the website. The DRLink advises of changes, events and other items of interest which occur at DRL.
- **Website Utilization and Redesign:** DRL is in the midst of website redesign in efforts to make the site more user friendly. Increased utilization of the website is being encouraged in the location of information by licensees, consumers and Board membership. Much energy has been vested in placing a substantial amount of information on the Department site. Peggy Wichmann asked the Board to supply feedback on any area of the website that is felt to need improvement.
- **Broker Experience Ad-Hoc Committee:** The Board was advised that an ad-hoc committee has been formed to address real estate broker requirements. A meeting date has been tentatively set for July.
- **Pager System:** The Board was advised of the implementation of a pager system within DRL which will aid in maintaining the continuity of meetings by locating Department staff in an expedited fashion.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES

The Board was advised that Board Services will not be including the summary reports in the agenda packets as these items are not typically reviewed during meetings. It was noted that the information contained in the summary reports is available on the website. Yolanda McGowan also indicated that if information is needed regarding any of information contained in the reports that the Board needs only to request that information.

PRESENTATION OF PROPOSED STIPULATIONS BY THE DIVISION OF ENFORCEMENT OR ANY SUBMITTED AFTER PRINTING OF THE AGENDA

Mark Herman came before the Board to answer questions regarding the Proposed Stipulation for Rick J. Roloff – 09 REB 041. There were no presentations given on the remaining Proposed Stipulations, listed below.

1. Brenda J. Alexander 06 REB 133
2. Bobby G. Grant 06 REB 225
3. Marina Solo 07 REB 9
4. Nicolle M. Davis 07 REB 24
5. Diane Van Den Elzen 06 REB 080

LEGISLATIVE/ADMINISTRATIVE RULES

Review and Discussion of Revisions to Rule Draft RL 24 Relating to Conduct and Ethical Practices for Real Estate Licensees

Peggy Wichmann reported to the Board regarding the results of her review of the scope statement which was drafted for revisions to RL 24 and indicated that the scope of this statement is broad enough to include revisions to RL 15.04. There was discussion by the Board of forming a Committee to address RL 24.05. Attorney Wichmann advised that she has been working in collaboration with the Division of Enforcement to draft language for RL 15. Mark Herman and Marvin Robinson came before the Board to present the Department's perspective regarding to revisions to RL 15.

EXAMINATION, EDUCATION AND EXPERIENCE ISSUES

None.

PRACTICE ISSUES

DRL Position on Electronic Retention of Records

This topic was addressed during “Review and Discussion of Revisions to the Rule Draft RL 24 Relating to Conduct and Ethical Practices for Real Estate Licensees”.

Discussion Regarding Establishing Disciplinary Guidelines for Unlicensed Practice

Mark Herman and Candace Bloedow appeared before the Board to discuss the consistency of actions vs. forfeitures and the development of guidelines for unlicensed practice. It was noted that applying guidelines could prove difficult as discipline in Real Estate cases vary depending on circumstances. The Board was then informed that this was an issue addressed by prior Board membership and that a guideline had once been established. Discussion of establishing guidelines for discipline and creation of more formal policy, especially concerning the handling of unlicensed practice, ensued. The Board requested to review the previously guidelines at a future meeting.

Foreclosure Sale Issues

The Board discussed issues relating to the sale of foreclosed homes. Concerns were expressed in that these sales are confusing and leave licensees and consumers in uncertain circumstances. Vital steps that are in place for the protection of consumers are bypassed and forms that are not typical to the profession or state are utilized in these transactions. Kevin King and Cori Lamont provided information and perspective from the WRA’s experience in this area. The Board discussed an approach to this issue. The Board generally acknowledged that there is no way to regulate the individuals conducting these sales but thought education may be a helpful approach to removing the mystery of these transactions.

Proof of CE Completion Upon Opening of Investigation

The Board inquired as to the possibility of conducting continuing education (CE) audits at the time an investigation is initiated. The Board was advised that the Department has taken a position that resources are not sufficient to conduct CE audits at the time an investigation is opened. The exception to this rule is the scenario that continuing education is an element of the investigation. The Board discussed the possibility of incorporating a requirement for submission of verification of CE as an element of a stipulation or at the time of renewal. Discussion of non-renewal discipline was also discussed. The Board indicated its desire for this request to be explored further by the Department with response to be provided at its next meeting.

Guidelines for Non-Renewal Discipline

This agenda item was address during discussion of the topic titled “Proof of CE Completion Upon Opening of Investigation”.

Inconsistency Between 18.09(1) (B) and (1) (F)

The Board reviewed inconsistency between 18.09 (1) (B) and (1) (F) relating to the disbursement of earnest money. Peggy Wichmann will review the inconsistency identified at today's meeting and will investigate any other issues in this rule. The Board was advised that once it decides to pursue this issue a scope statement will be required. Kevin King provided comments relevant to issues relating to this inconsistency as perceived by the WRA. No immediate action was taken by the Board so that Peggy Wichmann can complete research on this section prior to the next meeting of the Board.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Real Estate Forms Update

The Board was updated on the progress of the Real Estate Contractual Forms Committee. It was reported that the Real Estate Contractual Forms Committee is making significant progress. The offer to purchase form is nearing completion. The Committee hopes to conclude form revisions and publish these forms by January 1, 2010. It is anticipated that the Committee will complete its work at its next meeting.

PUBLIC COMMENTS

None.

PRESENTATION OF SUMMARY SUSPENSION

Michael H. Granger (09 REB 021)

Candace Bloedow and Mark Herman, Division of Enforcement, presented the petition for summary suspension in the matter of disciplinary proceedings against Michael H. Granger (09 REB 021). Ms. Bloedow filed original affidavit with Kimberly Wood, Bureau Assistant, at the beginning of her presentation.

CONVENE TO CLOSED SESSION

MOTION: Lisabeth Weirich moved, seconded by Kenneth Lee, to convene to Closed Session to deliberate on cases involving hearings (s. 19.85 (11) (a), Stats.); to consider licensure or discipline (s. 19.85(1) (b), 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.). Roll Call Vote: Stephen Beers-yes; Peter Sveum-yes; Robert Dueholm-yes; Kenneth Lee-yes; Ryan Schroeder-yes; and Lisabeth Weirich-yes. Motion carried unanimously.

Open session recessed at 1:00 p.m.

RECONVENE TO OPEN SESSION

MOTION: Robert Dueholm moved, seconded by Lisabeth Weirich, to reconvene into Open Session at 2:17 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

PRESENTATION RELATED TO REQUEST FOR REVIEW OF ADMINISTRATIVE WARNING AND DELIBERATION ON PROPOSED ADMINISTRATIVE WARNINGS OR ANY RECEIVED AFTER PRINTING OF AGENDA

Presentation Related to Request for Review of Administrative Warning

08 REB 151 – APPEARANCE

The respondent in case number 08 REB 151 appeared before the Board to present an appeal of the administrative warning issued in this matter.

MOTION: Stephen Beers moved, seconded by Robert Dueholm, to rescind the administrative warning for case number 08 REB 151 and to close for prosecutorial discretion (P3). Motion carried unanimously.

MOTION: Stephen Beers moved, seconded by Robert Dueholm, to request that the Division of Enforcement issue a letter of education regarding case number 08 REB 151. Motion carried unanimously.

**ADMINISTRATIVE WARNING
07 REB 280**

MOTION: Stephen Beers moved, seconded by Robert Dueholm, to issue the administrative warning for case number 07 REB 280. Motion carried unanimously.

MONITORING REPORTS OR ANY RECEIVED AFTER MAILING OF AGENDA

**FRANK J. RONDON
REQUESTING MODIFICATION**

MOTION: Kenneth Lee moved, seconded by Robert Dueholm, to grant Frank J. Rondon's request for modification to extend the deadline for payment of forfeitures. Motion carried unanimously.

**CASE CLOSINGS, CITATIONS, AND CASE STATUS REPORT OR ANY RECEIVED
AFTER MAILING OF AGENDA**

MOTION: Lisabeth Weirich moved, seconded by Kenneth Lee, to close the following cases as recommended by the Division of Enforcement. Motion carried unanimously.

1. **06 REB 080 (T.W. & TWHS)** – insufficient evidence with letter of education
2. **06 REB 096** – no violation
3. **06 REB 194** – no violation
4. **06 REB 263** – prosecutorial discretion (P5)
5. **06 REB 267** – insufficient evidence
6. **07 REB 033** – prosecutorial discretion (P5)
7. **07 REB 046** – prosecutorial discretion (P5)
8. **07 REB 096** – prosecutorial discretion (P5)
9. **08 REB 195** – prosecutorial discretion (P5)

**DELIBERATION ON PROPOSED STIPULATIONS OR ANY RECEIVED
AFTER MAILING OF AGENDA**

**BRENDA J. ALEXANDER 06 REB 133; BOBBY G. GRANT 06 REB 225; MARINA SOLO 07
REB 009; RICK J. ROLOFF 09 REB 041; AND DIANE VAN DEN ELZEN 06 REB 080**

MOTION: Robert Dueholm moved, seconded by Stephen Beers, to adopt the Stipulation, Findings of Fact, Conclusion of Law and Order in the matter of **Brenda J. Alexander 06 REB 133; Bobby G. Grant 06 REB 225; Marina Solo 07 REB 009; Rick J. Roloff 09 REB 041; and Diane Van Den Elzen 06 REB 080**. Motion carried unanimously.

NICOLLE M. DAVIS 07 REB 024

MOTION: Lisabeth Weirich moved, seconded by Kenneth Lee, to adopt the Findings of Fact and Conclusions of Law in the Final Decision in the matter of **Nicolle M. Davis 07 REB 024** pending clarification of the term of the suspension and granting Peter Sveum the authority to approve the amended order. Motion carried unanimously.

**DELIBERATION ON PROPOSED DECISIONS OR ANY THAT MAY BE RECEIVED
AFTER MAILING OF AGENDA**

None.

ORDER FIXING COSTS

None.

**DELIBERATION ON DISCIPLINARY PROCEEDINGS OR ANY THAT MAY BE
RECEIVED AFTER MAILING OF AGENDA**

SUMMARY SUSPENSION

**MICHAEL H. GRANGER
(09 REB 021)**

MOTION: Stephen Beers moved, seconded by Kenneth Lee, to adopt the petition for summary suspension for case number **09 REB 21** on the basis that the respondent's conduct poses an imminent danger to the public and to grant Peter Sveum the authority to approve the order of summary suspension in the matter of disciplinary proceedings against Michael H. Granger. Motion carried unanimously.

**DELIBERATION ON PETITIONS FOR REHEARING OR ANY THAT MAY BE
RECEIVED AFTER THE MAILING OF AGENDA**

None.

**REQUESTS FOR REINSTATEMENT OF LICENSES OR ANY THAT MAY BE
RECEIVED AFTER MAILING OF AGENDA**

None.

EXAMINATION ISSUES

None.

CONSULTING WITH LEGAL COUNSEL

Peggy Wichmann, Legal Counsel, was available for consultation throughout the duration of the meeting.

SUCH OTHER ITEMS AS AUTHORIZED BY LAW

None.

DOE – Signatures for Proposed Stipulations, Orders, and Administrative Warnings

Signatures were collected for all required documents.

OTHER BOARD BUSINESS

None.

ADJOURNMENT

MOTION: Robert Dueholm moved, seconded by Kenneth Lee, to adjourn the meeting at 2:34 p.m. Motion carried unanimously.