

NEW HAMPSHIRE REAL ESTATE COMMISSION
PUBLIC MEETING MINUTES
September 20, 2022

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, September 20, 2022, at 8:30 a.m. The meeting was conducted at the Office of Professional Licensure and Certification, 7 Eagle Square, Concord, New Hampshire. Public could attend in person or via teleconference.

Present: Commissioners: Steven Hyde, Esq., Matthew Cabana, Paul Lipnick and Susan Doyle.

Not Present: Commissioner Ralph Valentine.

Also present from OPLC office: Administrators Dawn Couture, Marla Pike, Chris Senko and Attorney Shane Goulet.

Sheri Phillips from the Department of Justice was also present.

I. CALL TO ORDER –

The meeting was called to order at 8:30 a.m. by Chairman Hyde.

II. REVIEW OF PUBLIC MINUTES –

Commissioner Lipnick moved to approve the August 16, 2022, public minutes, as presented, seconded by Commissioner Doyle. The motion passed unanimously.

III. NON-PUBLIC MEETING –

At 8:31 a.m. following an appropriate motion by Commissioner Lipnick and seconded by Commissioner Doyle to go in to a non-public session the Commission, by roll call, voted to conduct a non-public session for the purpose of the reading and approval of the non-public minutes of the August 16, 2022 meeting, and evaluating complaints against licensees, accredited individuals, institutions, or organization, or persons charged with practicing unlawful brokerage activity, and noting that such a non-public session is authorized by RSA 91-A:3, II(c), RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the vote of all members present.

IV. PUBLIC MEETING RECONVENED –

At 10:00 a.m. following an appropriate motion was made by Chairman Hyde and seconded by Commissioner Cabana, and the Commission unanimously voted by roll call, to reconvene the public meeting. The motion passed unanimously.

V. NON-PUBLIC MINUTES SEALED –

On an appropriate motion by Chairman Hyde and seconded by Commissioner Doyle, by roll call voted to seal the minutes of the non-public session from public disclosure pursuant to RSA 91-A:3, III(c), on the grounds that public disclosure would likely affect adversely the reputation of licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity, RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. The motion passed with each member recording his or her vote on the motion.

VI. ADMINISTRATIVE RULES & LEGISLATIVE TOPICS –

- a. Tina Kelly – Final Approval/adoption of the Administrative Rules 300 & 400 – Tabled so Tina can be present.
- b. HB 1344 – Schedule Rulemaking – Tabled so Commissioner Valentine can be present.

The Commission took a break from 10:04 a.m. to 10:09 a.m.

VII. OTHER BUSINESS –

Robert Barry – Petition for Reconsideration – Attorney Phillips provided a brief history on Mr. Barry's initial application. As the Commission does not have a reconsideration process, the Commission voted to take Mr. Barry's request up as an appeal pursuant to RSA 331-A:7, V. There is no appellate right to this petition as the initial request was not for licensure therefore the decision was not a denial of a license; it was a request for another way of licensure. Chairman Hyde made a motion to deny the petition for reconsideration. The motion was seconded by Commissioner Lipnick. The motion passed unanimously.

VIII. APPOINTMENTS –

- a. Wayne Mullin – Request to renew lapsed salesperson license – Mr. Mullin appeared in person requesting to have his salesperson license reinstated. Mr. Mullin was unaware that his renewal was incomplete as he did not receive the emails from OPLC regarding his incomplete renewal. He was notified by his broker that his license was lapsed and immediately contacted OPLC. Mr. Mullin stated that on August 16th he had completed the 3 hours of continuing education he was short on and submitted his affiliation form. Mr. Mullin confirmed that between January 5th to present, he has not done any transactions.

The Commission went into non-meeting at 10:31 am. The Commission reconvened from non-meeting at 10:50 am.

Chairman Hyde made a motion to approve Mr. Mullin's request for reinstatement. The motion was seconded by Commissioner Lipnick. The motion passed unanimously.

Chairman Hyde made a motion to waive the lapse fee pursuant to Rea 301.02 (i). The motion was seconded by Commissioner Cabana. The motion passed unanimously.

- b. Eric Callahan – Request to renew principal broker license – Mr. Callahan appeared via Zoom requesting to have his principal broker license reinstated. Mr. Callahan stated that he had completed his renewal and submitted the required documents within the 6 month period after the license's original expiration date. Mr. Callahan also mentioned that when he contacted OPLC regarding his renewal, each communication he had was with a different license clerk and each clerk would tell him a different document was missing. Upon review of the documents the Commission believes that the time period between when the license lapsed and when he applied for reinstatement was reasonable for good cause. Chairman Hyde made a motion to approve Mr. Callahan's request for reinstatement. The motion was seconded by Commissioner Doyle. The motion passed unanimously.

Chairman Hyde made a motion to waive the lapse fee pursuant to Rea 301.02 (i). The motion was seconded by Commissioner Doyle. The motion passed unanimously.

IX. QUESTIONS AND COMMENTS –

Ann Flanagan asked if there would be an instructor's workshop this year. Administrator Couture answered that as far as we knew, there would be a workshop; however, the date of it has not been finalized.

X. NON-PUBLIC MEETING –

At 11:09 a.m. following an appropriate motion by Chairman Hyde and seconded by Commissioner Doyle to go in to a non-public session the Commission, by roll call, voted to conduct a non-public session for the purpose of discussing and evaluating complaints against licensees, accredited individuals, institutions, or organization, or persons charged with practicing unlawful brokerage activity, and noting that such a non-public session is authorized by RSA 91-A:3, II(c), RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the vote of all members present.

VII. PUBLIC MEETING RECONVENED –

At 11:29 a.m. following an appropriate motion was made by Chairman Hyde and seconded by Commissioner Doyle, and the Commission unanimously voted by roll call, to reconvene the public meeting. The motion passed unanimously.

XI. NON-PUBLIC MINUTES SEALED –

On an appropriate motion by Chairman Hyde and seconded by Commissioner Lipnick, by roll call voted to seal the minutes of the non-public session from public disclosure pursuant to RSA 91-A:3, III(c), on the grounds that public disclosure would likely affect adversely the reputation of licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity, RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. The motion passed with each member recording his or her vote on the motion.

The Commission took a break from 11:30 a.m. to 11:36 a.m.

XII. NEW BUSINESS –

- a. 11:30 Adjudicative Hearing Maurice Robichaud – The hearing opened at 11:37 a.m. The complaint was filed on behalf of the Real Estate Commission. Respondent, Maurice Robichaud was present in-person. The respondent was represented by Attorney Nick Frasca.

Attorney for the prosecution was Marissa Schuetz. Attorney Frye was appointed as the Presiding Officer. The matter then proceeded to hearing.

Attorney Schuetz presented her case, investigator Eric Goulet was sworn in as a witness for the prosecution. Mr. Robichaud stated that he not aware that Ms. Labbe's license was not in active status at the time of transactions. There is now a better system in place to make sure that his salespeople will be renewing on-time. Attorney Frye closed the hearing at 12:04 p.m. The Commission will deliberate on the matter in non-public session.

XIII. NON-PUBLIC MEETING –

At 11:32 a.m. following an appropriate motion by Chairman Hyde and seconded by Commissioner Cabana to go in to a non-public session the Commission, by roll call, voted to conduct a non-public session for the purpose of discussing and evaluating complaints against licensees, accredited individuals, institutions, or organization, or persons charged with practicing unlawful brokerage activity, and noting that such a non-public session is authorized by RSA 91-A:3, II(c), RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each

member recorded his or her vote on the motion, which passed by the vote of all members present.

XIV. PUBLIC MEETING RECONVENED –

At 12:33 p.m. an appropriate motion was made by Chairman Hyde and seconded by Commissioner Doyle, and the Commission unanimously voted by roll call, to reconvene the public meeting.

XV. NON-PUBLIC MINUTES SEALED –

On an appropriate motion by Chairman Hyde and seconded by Commissioner Cabana, by roll call voted to seal the minutes of the non-public session from public disclosure pursuant to RSA 91-A:3, III(c), on the grounds that public disclosure would likely affect adversely the reputation of licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity, RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), and the Commission's executive and deliberative privileges. The motion passed with each member recording his or her vote on the motion.

XVI. ADJOURNMENT –

At 12:35 p.m. a motion to adjourn was made by Chairman Hyde, and seconded by Commissioner Doyle, to adjourn the meeting. The motion was unanimously approved.