

**NEVADA REAL ESTATE COMMISSION
PROPERTY MANAGEMENT WORKGROUP
MINUTES**

NOVEMBER 21, 2017

Nevada State Business Center
3300 West Sahara Avenue
4th Floor - Nevada Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:

Nevada Division of Insurance
1818 East College Parkway
Suite 103
Carson City, Nevada 89706

The meeting was called to order at 9:10 AM

1) INTRODUCTION OF WORK GROUP MEMBERS IN ATTENDANCE

In Carson City: Wayne Capurro, Capurro & Reid Real Estate, and Nevada Real Estate Commissioner
Judy Cook, Broker /Owner of Truckee Meadows Property Management
Tiffany Banks, General Counsel for Nevada Association of Realtors

In Las Vegas: Forrest Barbee, Berkshire Hathaway Homeservices Nevada/Arizona/California Properties
Ashley Hawks, Black & Cherry Real Estate Group and Property Management
Sandra Thomas, RE/MAX Advantage
Lee Barrett, Real Estate Commissioner and Work Group Chairman

2) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Las Vegas: Jan Holle, Chief Investigator with the Real Estate Division
Sharath Chandra, Administrator of the Real Estate Division
Teralyn Thompson, Administration Section Manager of the Real Estate Division
Rebecca Hardin, Commission Coordinator
Asheesh Bhalla, Deputy Attorney General and Commission Counsel

In Carson City: Jaye Lindsay, Appraisal Compliance/Audit Investigator

3) PUBLIC COMMENT

None.

4) POTENTIAL CHANGES FOR NRS AND/OR NAC IN REFERENCE TO PROPERTY MANAGEMENT

Lee Barrett, Work Group Chairman, stated that Informational Bulletin #012 was the fundamental of what the group was going to discuss and suggested that everyone review the bulletin.

Mr. Barrett stated that many of the issues that come before the Real Estate Commission involve property management and the goal of the work group is to see if there is anything existing in NAC that can be adjusted, while exploring the possibility of submitting new legislation for the 2019 legislature

Judy Cook stated that Informational Bulletin #012 basically bypasses the requirements of property management and gives authority to persons without a proper education to oversee property management activities.

Forrest Barbee stated that somebody without a permit should not be running credit or trying to complete an application or choose a tenant, because they don't know how to properly screen and avoid fair housing and discrimination issues, as well as a lot of other issues they're not trained to do.

Ashley Hawks stated the penalty for non-permitted licensees engaging in property management should be stiffer.

Sandra Thomas stated that the law was too vague and property management education was not sufficient to compensate for the vagueness in the law.

Mr. Barrett posed the following questions for open discussion:

- Do we need an apprentice program?
- Do we need more laws?
- Do we need to transition the laws we already have?
- Do we need more hours for education?
- Do we need more hours specifically for property management education?

Mr. Barbee stated that Informational Bulletin #012 doesn't differentiate between residential and commercial. Mr. Barbee stated that commercial leasing agents do have a lot of training in that area while residential agents do not.

Ms. Thomas stated that it's about education, because agents do not generally know Nevada Revised Statutes.

Administrator Chandra stated that the perspective of the Division was to address whatever problems exist regarding property management, but the mechanics of solving those issues should be the focus of the work group. Administrator Chandra stated that anything this work group comes up with is a recommendation and may have to go through the legislative process. Administrator Chandra stated that the Division prefers that changes be industry driven and the work group should engage the industry with their conclusions, get a consensus and then hopefully the industry will sponsor something in the form of a bill that makes sense for everybody. Administrator Chandra stated that the work group needed to remember that everything costs money and there is a dollar amount associated with the process of making a bill.

Mr. Barrett asked if there was anything that the work group could suggest as regulation which wouldn't require a legislative change.

Administrator Chandra answered that anything that is being talked about would probably require some kind of legislative change. Mr. Chandra recommended putting everything on the table, narrowing it down and prioritizing it. Administrator Chandra stated that while the Division is supportive of this process it needs to be industry-driven because the Division doesn't want to mandate anything.

Ms. Hawks stated that education is the primary concern and that there should be more requirements for obtaining the initial permit. Ms. Hawks suggested requiring an apprenticeship for newly permitted licensees where they would work under a property manager for a certain period of time before conducting property management on their own.

Ms. Thomas stated that property management courses don't teach enough of the law.

Ms. Cook stated that on an administrative level the breakdown of what is taught in pre-licensing needs to be updated.

Wayne Capurro and Mr. Barrett asked the group for their view of a stand-alone license. Mr. Barbee stated that quality education was the issue, not licensing. Mr. Barbee suggested that property managers join the National Association of Residential Property Managers (NARPM) or the Institute of Residential Property Managers (IRPM) for additional education and an ongoing resource. Mr. Barbee stated that supervision was an issue that could be improved upon and that sales managers should have a broker-salesperson license with better, expanded education. Mr. Barbee stated that team leaders should have a broker-sales license and a better knowledge of how to supervise pursuant to 645 when they're running a team.

Ms. Hawks stated that a license would not curtail any of the problems and that the permit is sufficient if the education requirement, accountability and supervision are in place.

Ms. Thomas stated that education is the most important thing and while NARPM aids with networking it's difficult to get the property managers to meetings.

Mr. Barrett restated the question of whether there should be a stand-alone license.

The consensus of the group was that a stand-alone license was not necessary.

Mr. Barrett stated that education was the highlight of the work group conversation.

Mr. Barbee stated that there needed to be more hands-on components in education.

Ms. Cook stated that if you're going to do property management it should be your only focus and if you're going to do sales that should be your only focus. Ms. Cook stated that property management and sales are two entirely different disciplines and should be separated, however since the current laws allow someone with a real estate license to get a property management permit and do both, this is what needs to happen in education:

1. Existing education for licensing program needs to be brought up to date and rewritten with some very strict requirements as to how the information is presented with a State mandated program so everybody is teaching the same thing.
2. Once the permit is granted there should be a post-licensing requirement where students bring to the table what they're seeing out in the real world.
3. The renewal continuing education requirement should be increased. If both property management and sales is being done, continuing education needs to at least double but preferably go up to 12 hours.

Ms. Hawks stated that making the initial pre-licensing requirement harder along with stiffer penalties for doing something outside the scope of their license might rectify a lot of the problems.

Mr. Barbee suggested that there be six hours of property management every year, in addition to, not as part of, the 24 hours currently required. Mr. Barbee stated that a prototype property management policies and procedures manual be put together and used as a teaching tool after the permits are granted.

The work group summarized their discussion as follows:

- Additional education was needed.
- It should be a harder to get a property management permit.
- Property managers should have a broker-salesperson license unless they're on a team, in which case the team leader should have a broker-salesperson license.

Jan Holle stated that activities of a real estate licensee and activities of a property manager is a gray area. Mr. Holle stated that currently a real estate broker can do leasing, rentals, etc., but licensees tend to go beyond that becoming the emergency contact, doing repairs, etc., which is overstepping. Mr. Holle stated that brokers that are mishandling funds need to be made more accountable and discipline doesn't really work so something may be required on the front end that can make it more difficult to obtain a license.

Mr. Barrett asked what activities a licensed real estate agent should not be doing and should be taken out of Informational Bulletin #012. The group responded that property managers should not be allowed to:

- Collect rent.
- Run credit or screen applications for tenants (minimize any interaction between an unpermitted licensee and a tenant).
- Write a lease.
- Do walk-through inspections with a tenant.

Ms. Cook stated that if Informational Bulletin #012 was altered too much, it would affect commercial leasing agents.

Mr. Barrett suggested doing a new bulletin just for residential.

Ms. Hawks stated that Informational Bulletin #012 should either be eliminated or left alone.

Asheesh Bhalla stated that when thinking about how to create a statute, it's important to think about it in terms of the scope of authority and whether an agent is acting within their authority as opposed to whether they knew or didn't know.

Mr. Barrett stated that the work group should look at what was talked about so far on this particular issue and whether a change would give a clearer idea of the scope of authority.

Mr. Barrett stated that looking at the black and white of the bulletin, it should say what you can do and what you can't do.

Mr. Bhalla stated that it's always a question of whether they were authorized, but never a question of whether they knew.

Mr. Barrett suggested having Informational Bulletin #012 as just commercial and something similar for just residential.

Mr. Capurro stated that everything on Informational Bulletin #012 is something a real estate agent with a property management permit should be allowed to do.

Mr. Barrett asked Administrator Chandra how to move the discussion forward in reference to giving the Division a tool to talk to people and do the due diligence for this particular activity.

Administrator Chandra stated that if the consensus of the work group was to make recommendations on how to improve Informational Bulletin #012, they could put some suggestions together, give them to the Division and the Division would consider it.

Ms. Hawks stated that Informational Bulletin #012 was pretty clear as far as the way that it reads and if there is going to be a change made it would need to be done legislatively. Ms. Hawks stated that the first paragraph is pretty clear as to what an agent can or cannot do without a permit and perhaps every broker

should be required to post the bulletin in a visible area or blast it out to their agents so they could have this condensed list.

Administrator Chandra asked if the root of the problem is the public being hurt:

- What can a broker do to protect that?
- What mechanics are there?
- Is it a bonding issue or something like that?
- What are the consequences of that?

Administrator Chandra stated that the work group may think something is a great idea but the industry may not think it's a great idea. Administrator Chandra stated that the work group should think about that because the industry is not only protecting itself but also creating a scenario where some people may be weeded out because the bar has been set a little higher. Administrator Chandra stated that authority should be put in the legislation that allows for regulation and that will give the Commission authority to make changes through regulation which is a great mechanism. Administrator Chandra stated that the administrative law making process is easier to work through rather than changing laws every two years and as an initial discussion, the work group needs to have an understanding of the parameters.

Ms. Hawks stated it would be beneficial to go back to the first page of Informational Bulletin #012 and break out what licensees cannot do.

Mr. Capurro stated that there was an NRS that allows a real estate broker to do anything, whether it is property management or sales, without a property management permit. Mr. Capurro stated that if there's going to be an impact on the industry that statute needs to be changed.

Ms. Cook stated that NRS 645.030 basically says that a broker can lease or sell, but doesn't say anything about the ongoing management specifically. Ms. Cook stated that the statute was so broad in its language that the group would have to go through and fine-tune Informational Bulletin #012.

Mr. Barrett stated that any further discussion of doing a new bulletin or a bulletin based on NRS 645.030 would be a waste of energy.

Ms. Cook stated that Informational Bulletin #012 should be withdrawn and the workgroup should focus on education and things that can be changed without rewriting the law.

Mr. Barrett asked Administrator Chandra if there was any way the removal or withdrawal of Informational Bulletin #012 could be affected.

Administrator Chandra answered that Informational Bulletin #012 addresses questions that are out in the industry and states the law right now.

Mr. Barrett stated that the work group would table further discussion on Informational Bulletin #012 and focus on education.

Ms. Thomas stated that there should be specific property management classes, such as trust accounting, that are mandatory for the renewal of property management permits.

Mr. Barbee stated that educators need to be more creative and put some of property management packages together.

Mr. Barrett questioned whether post-licensing for property management would be necessary because most of the people making property management mistakes were not new permit holders.

Ms. Hawks stated that pre-licensing requirements should be a lot harder so it wouldn't be as easy to get a property management permit. Ms. Hawks suggested making the initial permit more expensive and having stiffer renewal requirements.

Mr. Capurro stated it wasn't a bad thing to increase the education requirements which increases the costs and the amount of time spent because people would have to devote themselves to property management to justify the expense.

Ms. Cook stated that the work group should focus on things that can realistically get done and a change to NRS is going to be a lot more challenging to get through in any reasonable timeframe as opposed to a change to a regulation. Ms. Cook stated that NRS states that 24 hours of pre-licensing is required so make that the best 24 hours a licensee could possibly get and work on changing the law later.

Mr. Barrett stated the group had decided to table the discussion about Informational Bulletin #012 and concentrate on administrative things such as changing education requirements, tutorships and creating a resource guide for property managers.

5) PUBLIC COMMENT

None.

6) ADJOURNMENT

The meeting adjourned at 12:00 PM.