

NEVADA REAL ESTATE COMMISSION
PROPERTY MANAGEMENT WORKGROUP
MINUTES

JANUARY 30, 2018

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 1:03 PM

1) INTRODUCTION OF WORK GROUP MEMBERS IN ATTENDANCE

In Las Vegas: Lee Barrett, Clark County
Sandra Thomas, Clark County
Ashley Hawks, Clark County

In Carson City: Judy Cook
Wayne Capurro, Washoe County
Tiffany Banks, General Counsel for Nevada Association of Realtors

2) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Las Vegas: Asheesh Bhalla, Office of the Attorney General
Rebecca Hardin, Commission Coordinator
Teralyn Thompson, Administration Section Manager
Sharath Chandra, Administrator

In Carson City: Ann Angell, Compliance/Audit Investigator

3) PUBLIC COMMENT

None.

5) DISCUSSION ONLY: POTENTIAL CHANGES FOR NRS AND/OR NAC IN REFERENCE TO PROPERTY MANAGEMENT

Judy Cook gave a brief description of comments she submitted prior to the meeting (included in the meeting handout).

Sandra Thomas stated that she disagreed with the amount of the fee increase suggested.

Lee Barrett asked if the Nevada Administrative Code (NAC) could be changed by the actions of the Commission or if it was a legislative issue.

Asheesh Bhalla stated that it could be done at the Commission level but it would still need to go to the Legislative Council Bureau (LCB) for approval to verify that the NAC does not conflict with any provisions of the Nevada Revised Statutes (NRS).

Mr. Barrett asked Ms. Cook which items she would like to see advance at a Commission level.

Ms. Cook stated that the curriculum for pre-licensing and fees were the only two issues, but the curriculum for pre-licensing should take precedence. Ms. Cook stated it would require changing the language, but the wording would be up to LCB.

Sandra Thomas summarized the comments she submitted prior to the meeting (included in the meeting handout).

Mr. Barrett asked for clarification of tortious interference with a contract pursuant to an exclusive agreement with a brokerage and whether the statute covered contracts in any form of a real estate transaction.

Mr. Bhalla stated that tortious interference under the common law is a fact specific situation but it would depend on the whether there was specific intent behind it.

Ashley Hawks asked if the prohibition of interference was law or ethics.

Mr. Bhalla stated that it is common law so it's not a law yet.

Ms. Hawks stated that there was some kind of ethical accountability.

Wayne Capurro stated that interfering with a real estate contract listing or buyer/brokerage agreement is an ethical problem. Mr. Capurro stated that it was unclear whether that is addressed when it comes to property management contracts and it should be looked into to make sure that it is addressed.

Ms. Hawks summarized her feedback comments submitted prior to the meeting (included in the meeting handout).

Mr. Barrett stated that a Property Management resource guide similar to the Residential Disclosure Guide (RDG) would be something the work group could start working on immediately and it would not require legislative action.

Administrator Sharath Chandra stated that the guide could be outsourced, which would require a Request for Proposal (RFP) or it could be done in-house.

Mr. Barrett asked if the guide could come under the Recovery Fund because it would be used as a proactive step in preventing property management misconduct.

Administrator Chandra stated that committing time and resources to this was a show of good faith.

Mr. Chandra stated that the Division could figure out a way to pay for a guide initially. Administrator Chandra stated the updates shouldn't be too expensive so the Division could do a bi-annual RFP for updating the guide.

Mr. Barrett stated that the resource guide was something the group could work on to come up with some guidelines.

Mr. Capurro stated that he was in favor of the resource guide, but did not want to abandon the idea of increasing the number of hours required for pre-licensing and renewal.

Mr. Barrett stated that increasing the hours would require an NRS change.

Administrator Chandra stated that the 24 hours of pre-licensing education was an NRS requirement, but the work group could discuss changing anything in NAC to bring to the Commission as a recommendation.

Teralyn Thompson reminded everyone that the decision to move this to the workshop process is the Commission's decision so the language would have to be put together with the strikeouts and additions to current regulation. Ms. Thompson stated that changes would need to be presented to the Commission at the next meeting and have the Commission agree to move forward in the rulemaking process.

Mr. Barrett explained that the property management work group was formed because property management violations tend to be from 50 to 65 percent of the Commission hearings. Mr. Barrett stated that NRS and NAC would have to be considered when seeking solutions for that problem, which could take six months or

longer to get done. Mr. Barrett stated that his goal was to come up with something that could affect the industry almost immediately and would be something like a resource guide.

Administrator Chandra suggested that the work group focus on a framework for the resource guide and present it to the Commission for discussion.

Ms. Thomas asked how the guide would be distributed and if it would be a requirement.

Mr. Barrett stated the group would discuss that but he didn't know if the Division could make reading the resource guide a requirement.

Mr. Capurro stated that the Residential Disclosure Guide is a legal requirement and didn't see why this resource guide wouldn't be a legal requirement for property managers.

Mr. Bhalla stated that it couldn't be legally required without changing statute.

Ms. Hawks asked the difference in the process for revising the statute versus adding a portion thereof.

Administrator Chandra stated that NAC is regulatory which takes the statutes and interprets them to clarify. Administrator Chandra stated that changing the statute would be a legislative process, which is every two years. Administrator Chandra stated that the process would need to be started, by parties outside of the Division now.

Ms. Hawks stated that she was in favor of a resource guide. Ms. Hawks questioned if the guide would be beneficial if there is no requirement to read it.

Mr. Barrett stated that if it was done through NAC it could be done in-house without going to the legislature. Mr. Barrett stated that legislative issues are complicated because there are people other than this work group and the Commission that are involved in making that decision.

Administrator Chandra stated that the industry would still have the option of pursuing the legislative process if it decided to do so in the future. Administrator Chandra suggested that the framework of the property management guide have topics that should be addressed in a guide so they can be incorporated in an RFP, if necessary.

Mr. Barrett stated that the work group had narrowed down its focus to NAC curriculum and the resource guide.

Mr. Barrett stated that he would hold the discussion of the curriculum until the next meeting to give everyone a chance to review the curriculum currently being offered.

Mr. Barrett stated that he wanted to create a list of five to ten topics that are issues for property management.

Ms. Cook clarified that the resource guide would be a tool for property management practitioners, not for the consumer. Ms. Cook stated that her number one concern is trust accounting. Ms. Cook recommended an update to the Trust Accounting Guide in conjunction with what the work group is doing.

Mr. Barrett suggested looking at best practices on trust accounting.

Ms. Cook stated that she was concerned about broker oversight for electronic banking, unlicensed individuals doing trust accounting and tenant placement.

Ms. Thomas agreed with trust accounting and security deposits.

Mr. Barrett stated that some burden falls on education and that there was a lot of confusion about contracts.

Ms. Hawks stated that she would like to see a miscellaneous subsection that covers things like eviction, service animals, squatters and things that come up day to day that are kind of gray, done with bullet points that are easily readable and not super wordy.

Ms. Thompson stated that it would be wise for the Division or the Commission to provide clarification on chapters of law that the Commission/Division does not have jurisdiction over.

Mr. Bhalla stated that he would be wary about putting out any disclaimers that says that the Commission doesn't have jurisdiction over anything. Mr. Bhalla stated that there are other issues that should be addressed even if the Division does not have primary jurisdiction.

Ms. Hawks suggested a resource section with a direct link to where to find other information.

Mr. Barrett stated that he would like the group to come up with four or five main titles and suggest some things that are part of the practice of property management under each.

Mr. Bhalla suggested licensing, marketing, fiduciary responsibilities and ethics as main titles. Mr. Bhalla stated that a FAQ section with examples, explanations and four or five hypotheticals on common problems could be placed at the end of the guide along with a resource section. Mr. Bhalla stated that a visual aid like a flow chart could be included.

Ms. Cook suggested entitling the publication "Property Management Best Practices" so that it's not implied that the Division is saying that it is law but best practices in the industry. Ms. Cook suggested the following main categories: financial, owners, tenants, vendors, and a final segment of state and federal law with links and excerpts to reference specific issues.

Mr. Barrett stated that the group should work on subsections of the first four categories and asked Mr. Bhalla to give his input for the state and federal section at the next meeting.

The work group proposed the following outline.

- Financial:
 - ↳ trust account reconciliation
 - ↳ security deposit transmittals
 - ↳ accounting
 - ↳ electronic banking
 - ↳ rent collection
 - ↳ reporting
 - ↳ self-auditing
 - ↳ 1099 preparation
- Owners:
 - ↳ accountability in accordance with the contract
 - ↳ marketing for new accounts
 - ↳ best practices
 - ↳ reporting to owners (not just financial)
 - ↳ agent's authority (level of agency control)
 - ↳ Fact Act
 - ↳ owner privacy
- Tenants
 - ↳ screening
 - ↳ property condition inventory
 - ↳ move-in process
 - ↳ move-out process
 - ↳ rent collection
 - ↳ handling repairs
 - ↳ social media
- Vendors
 - ↳ license law
 - ↳ insurance
 - ↳ vendor contracts (sample bullet points for a contract)
 - ↳ response time

Mr. Barrett stated that the goal is to get this structured so it can be done at the next meeting. Mr. Barrett stated that this is something that can be self-produced and asked if it would require an RFP.

Ms. Thompson stated that if funds were going to be used from the Educational Research and Recovery Fund the work group would have to take into consideration whether there is enough money remaining in the Fund because the Commission had already approved money for something else.

Mr. Bhalla suggested that the guide be posted online as a pdf after Commission approval.

Mr. Bhalla suggested including the Federal Fair Housing Act, the Americans with Disabilities Act, Title 7 and Chapter 118.

Ms. Cook suggested including the Fair Debt Collection Practices Act; Service Member Civil Relief Act; Fair Credit Reporting Act, which should go in the state and federal section.

Mr. Barrett stated that only links would be included.

Ms. Cook agreed that links should be provided for the full law, but some relevant bullet points should also be included.

Mr. Barrett stated that the work group should be able to detail the outline at the next meeting so a working model of the guide could be created. Mr. Barrett stated that the curriculum could be moved forward.

Mr. Capurro stated that he didn't want to see the work group completely abandon increasing the hours of pre-licensing and renewal education.

Mr. Barrett stated that this work group would go ahead and do the things that can be done immediately and suggested forming another work group to do the legislative changes.

4) FOR POSSIBLE ACTION: DISCUSSION AND DECISION TO APPROVE MINUTES OF THE NOVEMBER 21, 2017 PROPERTY MANAGEMENT WORK GROUP MEETING

Wayne Capurro moved to approve the minutes. Ashley Hawks seconded. Motion carried unanimously.

5) PUBLIC COMMENT

None.

6) ADJOURNMENT

The meeting adjourned at 2:45 PM.