

**NEVADA REAL ESTATE COMMISSION
EDUCATION WORK GROUP
MINUTES**

VIA VIRTUAL MEETING

NOVEMBER 4, 2020

11:00 AM

1) Introduction of Work Group Members in Attendance

Lee Barrett, Real Estate Commissioner and Work Group Chairman; Neil Schwartz, Coldwell Banker Premier Realty; Forrest Barbee, Berkshire Hathaway HomeServices Nevada; Thanh-Thuy N Tran, Imperium Property Management & Consulting LLC; Julianne Holt, Sierra Nevada Properties.

2) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Annalyn Carrillo, Education & Information Officer; Kimberly Smith, Education Supervisor; Asheesh Bhalla, Deputy Attorney General and Commission Counsel.

3) Public Comment

No public comment.

4) Discussion regarding new Continuing Education designation of Risk Reduction, including, without limitation: Property Management, Leasing and Information Security.

Sharath Chandra stated that there are a set of regulations that will come before the Commission for adoption at the December 7-9, 2020 Real Estate Commission meeting. Mr. Chandra stated that those regulation were drafted based on the statutory changes that were made to pre-licensing, continuing education, age restrictions and a few other changes.

Mr. Chandra stated that the intent of the work group is to tackle specific questions that have come to the Commission and to provide recommendations which the Commission can work through. Mr. Chandra stated that there will be three work group meetings. Mr. Chandra stated that this first meeting is to figure out items that need to be addressed. Mr. Chandra stated that by the second work group meeting, work group members will understand questions being asked and will provide suggestions and feedback. Mr. Chandra stated that the final meeting will involve quick suggestions, recommendations and ideas from the work group that the Commission will use to make modifications to the regulation.

Mr. Chandra stated that during the regulation, a new designation was introduced called Risk Reduction. Mr. Chandra stated that originally, this designation started off with discussion on

property management challenges and cyber security issues then the idea of a risk reduction general topic was introduced.

Mr. Chandra stated that the statute changed requiring 30 additional hours of pre-licensing in addition to the existing 90 hours. Mr. Chandra stated that after the Commission adopts the regulation, pre-licensees will be required to have 120 hours of pre-licensing education. Mr. Chandra stated that the 30 hours is broken up into two 15-hour blocks consisting of contracts and agency. Mr. Chandra stated that under agency, risk reduction would be a topic. Mr. Chandra stated that risk reduction could include property management, leasing and information security.

Mr. Chandra stated that the intent of the work group is to come up with other topics that could fall under Risk Reduction. Mr. Chandra stated that all of the items discussed under Risk Reduction will also translate to continuing education. Mr. Chandra stated that 3 hours of Risk Reduction has been added to continuing education requirements. Mr. Chandra stated that the question we want answered is, what are sponsors and educators going to teach under the 3 hours of Risk Reduction. Mr. Chandra stated that the ideas from this work group will provide more information to instructors and sponsors to develop courses to meet the 3 hour requirement and also for the pre-licensing instructors and sponsors to develop course work under the 15 hour requirement.

Lee Barrett asked the work group for ideas that can be added to property management, leasing and security information.

Neil Schwartz suggested agent safety meaning keeping agents and their clients safe while showing property.

Thanh-Thuy N Tran stated that property management and leasing unto itself should be handled completely differently and as a separate entity meaning for example that community managers have to have a separate set of courses that are specialized toward homeowner association guidelines and board meetings. Ms. Tran stated that in property management, that would encompass a huge risk reduction bubble because it should be treated as its own animal just like new home sales should be treated as a separate entity from general real estate.

Ms. Tran stated that realtors who don't do property management on a 24/7 basis don't understand trust accounts or co-mingling. Ms. Tran stated that instead of having an intro class that touches a little on each subject, Ms. Tran would prefer a deep dive into the subject of property management.

Commissioner Barrett stated that there are agents practicing property management without the proper permit. Mr. Barrett stated that with risk reduction, what needs to be figured out is if there are any other subjects besides the three that the work group should add.

Forrest Barbee stated that he prefers the term Risk Management instead of Risk Reduction because the risk can't always be reduced. Mr. Barbee stated that this is all about risk whether it's errors and omissions concerns, acting outside the scope of a license, risk inherent with screening tenants in property management situations for leases, perils of having multiple representation in a

transaction or reducing what is said in verbal to paper. Mr. Barbee stated that these are issues that come before the Commission. Mr. Barbee stated that he sees this a much broader area in terms of risk reduction. Mr. Barbee stated that he is not on board with the pre-licensing information that has been shared.

Mr. Schwartz stated that his idea of the Risk Management class is to encourage licensees not to go into property management. Mr. Schwartz stated that this class would not replace the property management permit class. Mr. Schwartz stated that it would be a small introduction to areas in the real estate business without going into details of each. Commissioner Schwartz stated that once the Risk Management class is taken, individuals can decide if they want to delve into the areas introduced in the class.

Mr. Chandra stated that when risk reduction was originally being discussed, the intent was that property management was an issue, and would be addressed by educating property managers. Mr. Chandra stated that when the regulation was proposed, there was three hours of mandatory property management required as part of continuing education. Mr. Chandra stated that when the Commission started debating, the Commission agreed that teaching just a little in several areas is dangerous as agents may think that they can be property managers. Mr. Chandra stated that might not be the best use of the three hours. Mr. Chandra stated that it was agreed to convert the three hours into Risk Reduction.

Mr. Chandra stated that the information from this work group will assist in developing the education guidebook that informs the sponsors as to what they can develop in the course and will state all topics that instructors can discuss in three hours of Risk Reduction.

Mr. Schwartz stated that there are a lot of subtitles under information security such as the transmitting of electronic information and keeping records safe, that could be covered.

Mr. Barbee stated that fair housing should be included. Mr. Barbee stated that fair housing issues should be looked at which includes diversity and all of the laws that are changing regularly such as screening tenants when there is criminal history. Mr. Barbee stated that there are a lot of things to be cognizant of related to different aspects of fair housing that has not been embraced.

Mr. Schwartz stated that the Commission and Division should look at the past 12 months to see what primary issues have been in front of the Commission. Mr. Schwartz stated that these issues can be part of the Risk Reduction class. Mr. Schwartz stated that it would be the same as making a class out the Open House publication.

Mr. Barbee stated that licensees should be prepared for the kind of treatment they will receive during litigation and how to avoid it. Mr. Barbee stated that there are a lot of differences between punitive actions at the Division level and punitive actions in court.

Ms. Tran stated that social media is something that should be paid attention to along with fair housing.

Mr. Barrett stated that social media under risk reduction is a great idea. Mr. Barrett stated that fair housing should be a topic under risk reduction, if not part of the additional 12 hours of continuing education that has been added.

Julianne Holt stated that she would like to get statistics from the Division regarding what issues have come before the Commission in the past. Ms. Holt stated that property management is probably one of the biggest issues that come before the Commission along with advertising and disclosures or lack thereof. Ms. Holt stated that based on what has historically come before the Commission will determine what the risks have been.

Mr. Barrett recommended Mr. Schwartz write to the attorneys at the Nevada Association of Realtors to find out what some of their major issues are on the legal hotline.

Ms. Holt stated that the scope of what a license allows and doesn't allow, is one of the biggest things. Ms. Holt stated that what she sees happening are agents talking about property management laws whether they are property managers or not or quoting interest rates and prices for mortgages when they are not mortgage lenders. Ms. Holt stated that by staying in your lane and doing what you are approved to do helps keep liability down immensely.

Mr. Schwartz stated that the three hour course should be called Introduction to Risk Management that introduces agents to risk management in many of the areas that have been discussed and are dealt with in the real estate business. Mr. Schwartz stated that it should not be a class of three hours in just one of the topics discussed rather an introduction to risk management in general.

Mr. Barbee stated that he would caution anything introductory in continuing education classes because they are diametrically opposed to one another. Mr. Barbee stated that there is ample opportunity within pre and post licensing to provide introductory risk management type content.

Ms. Holt stated that she wants to add client confidentiality to the list of topics under risk reduction.

Mr. Schwartz stated that Introduction to Risk Management may be well spent in post licensing. Mr. Schwartz stated that if the class includes multiple areas of risk management, the author of the class should be well versed and educated to cover all the areas being discussed.

Ms. Tran stated that issues come up with fiduciary duty even though it is basic.

5) Discussion regarding Sponsors and Instructors approved by the Division for Continuing Education Courses, including, without limitation: General Qualifications and Requirements, Duties of Instructors and Sponsors and Withdrawal of Approval by the Administration.

Sharath Chandra stated that the Division approves a course through a sponsor. Mr. Chandra stated that there are also general qualification requirements for instructors who teach courses. Mr. Chandra stated that the Division has disciplinary action rights regarding courses that are offered and with instructors. Mr. Chandra stated that the Division approves a lot of instructors. Mr. Chandra stated that the way it is trending, the sponsor writes and offers a continuing

education course with several instructors attached that can potentially teach the course. Mr. Chandra stated that sometimes the instructors could be sponsors.

Mr. Chandra stated that challenges are that qualifications of instructors and disciplinary action against instructors are not aligned correctly. Mr. Chandra stated that the Division is trying to re-work the system to make it more effective by separating the course approval from the instructor approval. Mr. Chandra stated that this may require some changes to the regulation or administratively can be done. Mr. Chandra stated that the Division would like to have an annual instructor approval process. Mr. Chandra stated that some of the requirements for an instructor can be standardized. Mr. Chandra stated that an instructor would apply and be approved by the Division. Mr. Chandra stated that as an approved instructor, a designation would be issued, and the instructor could take it to any sponsor that is offering a course. Mr. Chandra stated that it is the sponsor's responsibility in making sure the instructor was aligning with the course content. Mr. Chandra stated that this frees up the instructor to teach other courses without being tied to the sponsor. Mr. Chandra stated that a sponsor that is developing a course would attach three or four instructors that have been pre-authorized by the Division. Mr. Chandra stated that this would eliminate the need for the Division to ask a sponsor to submit resumes for every course and for every instructor that the Division already has in its system.

Mr. Chandra stated that regarding the duties of instructor and sponsors, the sponsors are currently responsible for a lot of things by regulation. Mr. Chandra stated that there are so many instructors teaching so many courses, sometimes the sponsor relies on the instructor to do duties which instructors do not do at times. Mr. Chandra stated that sponsors are responsible for roster uploads, signing certificates and timeliness. Mr. Chandra stated that when there are instructors doing these duties for different sponsors, the challenge for the Division is going to all the sponsors and having them go back to the instructors directly for compliance. Mr. Chandra stated that the Division would have the authority to go directly to the instructor for corrective actions.

Mr. Chandra stated that regarding withdrawal of approval by the Administrator, the Division could go directly to the instructor and withdraw their ability to teach.

Mr. Schwartz stated that he agrees with Mr. Chandra. Mr. Schwartz stated that there should be an overall certification for an instructor, not per class. Mr. Schwartz stated that there needs to be restrictions on approval to teach specific classes. Mr. Schwartz stated that attendance should be mandatory for instructors to attend instructor training workshops for a Division approved instructor to keep his/her license. Mr. Schwartz stated that instructors should be charged a fee to attend the workshops to offset the cost of having high powered instructors.

Forrest Barbee stated that it is frustrating to go to a class where the instructor has 30 years in the business, meets all of the requirements but can't teach the course, in part because the instructor didn't write it. Mr. Barbee stated that there is a big difference between those who write and develop the course and those who attempt to teach it. Mr. Barbee stated that this quality checking cross check is crucial.

Mr. Barbee stated that an instructor should hold the permit or license for the subject being taught.

Mr. Schwartz stated that the instructor application needs to be more thorough.

Commissioner Barrett stated that it is important that the work group look at minimum requirements for an instructor.

Thanh-Thuy N Tran stated that instructors should hold the proper license or permit. Ms. Tran stated that she understands that there are some instructors who are not licensees and are attorneys or mortgage brokers.

Julianne Holt stated that instructors should have hands on experience and prior work history to show that they have done it, been there and made actual decisions.

Mr. Chandra stated that his biggest take away from this discussion is the fact that the work group is open to making the sponsor/instructor separation. Mr. Chandra stated that he does not want to burden an instructor or sponsor because this is a collaborative effort where the Division supports the industry. Mr. Chandra stated that if the work group has specific forms that other states use or feedback, please provide it to the Division.

Mr. Barrett stated that the work group would keep their recommendations reasonable and easy. Mr. Barrett stated that the biggest thing is instructors that are not doing what they need to do, to be able to remove them when they are not teaching to the proper level.

6) Discussion regarding Pre-Licensing, Post-Licensing and Continuing Education Delivery by Live Instruction or Distance Education.

Sharath Chandra stated that the pandemic has changed things and it does not seem to be going backwards. Mr. Chandra stated that everything is moving to a digital media platform. Mr. Chandra stated that there is litigation and interstate commerce issues to consider so courses need to be accessible to out of state licensees that want to take courses yet do not reside in Nevada.

Mr. Chandra stated there are a lot of things to consider such as how to take current live instruction that is required as part of continuing education and figure out a way to do a hybrid model that allows someone to take what is considered live in a digital format. Mr. Chandra asked the work group to consider how to change the fifty percent live requirement which is currently in regulation and requires licensees to attend in class courses for fifty percent of the continuing education and create a hybrid model that allows someone to take all 36 hours in one way that meets all of the requirements.

Mr. Chandra stated that the Commission is looking at a larger comprehensive idea of how to transition from the model before the pandemic to now. Mr. Chandra stated it may just require changing the definition of “live course” to allow for a digital format and building standards around what that looks like. Mr. Chandra stated that currently in live courses, there are Zoom classes with attendees interacting with the instructor which right now is considered to meet the live requirement. Mr. Chandra stated that if the live requirement is changed to allow for that kind of course work to be done across the entire body of 36 hours, that allows licensees to remotely do this from rural areas, out of state and in state. Mr. Chandra stated that the

Commission could keep the fifty percent requirement with “live” being the digital classroom and allowing online correspondence courses.

Mr. Chandra stated that under the Declaration of Emergency that the State is currently under, the Administrator has allowed for the live component to be done the way sponsors are currently doing it. Mr. Chandra stated that his authority will end once the Declaration of Emergency is lifted. Mr. Chandra stated that at that point, the Commission has to make what is currently being practiced permanent.

Ms. Holt stated that with the current situation, taking courses at home is a prudent option to consider. Ms. Holt stated that she would take live instructed classes if it was an option. Ms. Holt stated that a Zoom meeting should be the exact equivalent to in class courses during the current situation. Ms. Holt stated that she does not see anything wrong with people being required to be on camera, to be interactive and proving that they are listening and learning.

Ms. Tran stated that people who want to continue getting their education will get online and will be present on screen. Ms. Tran stated that if actual in class courses can't be taken then everything should be done via the online platform instead of the self-paced study. Ms. Tran stated that on the last couple of continuing education classes she has attended since the pandemic started, people have been rude and disrespectful to instructors. Ms. Tran stated that people are upset that they must sit in front of the camera and participate. Ms. Tran stated that people are trying to skate by and do the bare minimum when it comes to getting their credits. Ms. Tran stated that there needs to be a way to keep our industry engaged and keep our peers respectful.

Mr. Barbee stated that there should be Zoom style classes going forward. Mr. Barbee stated that the work group needs to come up with a way to weed out classes that are not doing the job and replace them with classes that are designed with content and style that are competitive with live classes. Mr. Barbee stated that a well-designed online class can easily compete with a live class especially if the instructor is just reading from the book and boring everyone.

Mr. Schwartz stated that some classes will do well on Zoom depending on the subject matter. Mr. Schwartz stated that agents would benefit more in a live contracts class rather than a contracts class on Zoom. Mr. Schwartz stated that the interaction between licensees is lacking in a Zoom class which is an important factor in the business. Mr. Schwartz stated that relying solely on Zoom and not having relationship interactions could be detrimental. Mr. Schwartz stated that it is harder to see if people are paying attention in a Zoom class than a live class. Mr. Schwartz stated that if Zoom classes are kept in place, after so many students sign up, sponsors should be required to have an overseer that will monitor the class so the instructor can spend time teaching without worrying about who is not on camera. Mr. Schwartz stated that if there are over 25 people in the class without a monitor, the value of the class goes down.

Commissioner Barrett stated that he has noticed that instructors are still reading the book to people. Commissioner Barrett stated that it was boring in live classes and it is worse online. Commissioner Barrett stated that instructor should be required to record some of their Zoom classes in order to get a general idea of their skill set in being able to do Zoom classes. Commissioner Barrett stated that there are a lot of licensees that send a third party person to take

their continuing education. Commissioner Barrett stated that in Nevada, an ID check is not required. Commissioner Barrett stated that North Carolina had to start doing ID checks because they had top producing agents that were not going to classes rather hiring surrogates to take the class under their name. Commissioner Barrett stated that you must be careful with being too liberal and opening it up to fraud. Commissioner Barrett stated that he thinks one third could be Zoom, one third could be live classroom and one third could be another system. Commissioner Barrett stated that he does not want the quality to go away which is what he is afraid of with Zoom.

Mr. Chandra stated that other online platforms could be used. Mr. Chandra stated that the marketplace can figure out what works best for them. Mr. Chandra stated that larger corporations will have a hybrid where the instructor is in the classroom with people that want to go to a physical location that is also being live streamed with people who are sitting in their homes watching the same course online.

Mr. Chandra stated that standards can be developed that are outside the regulation. Mr. Chandra stated that the regulation will say the definition of what a live classroom requirement is such as hybrid, Zoom, etc. Mr. Chandra stated that the question is do we take the fifty percent and break it up, saying everything that is required to be done has to be done via either live coursework or digitally. Mr. Chandra stated that the standards for how courses are offered is also where the work group will help because a lot of the topic is how it is offered, the amount of participants, whether there is a moderator or not and whether someone must be on camera 100% of the time. Mr. Chandra stated that all of this can be addressed in the standards. Mr. Chandra stated that some of the suggestions from the work group can be made part of the requirements that the Commission will require as part of regulation and the rest will be placed into standards that have to be set up.

Mr. Chandra stated that his goal is that by the third meeting, there will be a consensus on what's to be done, after which a document will be prepped to go before the Commission. Mr. Chandra stated that by December 2021 the work group's suggestions will come to fruition.

7) Public Comment

No public comment.

8) For Possible Action: Adjournment

Meeting adjourned at 1:54 p.m. on November 4, 2020.