New Mexico Real Estate Commission

Regular Meeting

July 19, 2021

Zoom Meeting Hosted by the Greater Albuquerque Association of Realtors

1635 University Boulevard NE

Albuquerque, New Mexico 87102

Persons wishing to attend the meeting by Zoom must register in advance with GAAR at:

<https://gaar.zoom.us/meeting/register/tZctf-qhpz8vH9P3yiEsvjQiE05o4BRZ4hkN>

After registering, you will receive a confirmation email containing information about joining the meeting.

**Please remember that while Commissioners may be physically present at the meeting, brokers and members of the public must attend via Zoom because the classrooms normally used for broker seating are closed until the end of the year because of damage caused by a May 31 rainstorm**.

AGENDA

1. 9:00 a.m. - Call to Order and Welcome- Bill Davis, President.
2. Roll Call and Determination of Quorum.
3. Approval of the Agenda of the July 19, 2021 Regular Meeting.
4. Approval of the Minutes of the May 21, 2021 Regular Meeting.
5. Introduction of Joe Dworak, Director, Boards and Commission Division.
6. Broker and Public Forum.
7. Old Business.
8. Transfer of Funds to Real Estate Recovery Fund.

$120,000 has been transferred from the Real Estate Commission Fund to the Real Estate Recovery Fund to restore the Recovery Fund to its statutory $150,000 minimum balance.

1. State broker exam item review.
2. Teams Task Force Update.

8. New Business

Rules Task Force Discussion

* Proposed amendments to Part 1, General Provisions and Definitions, and Part 3, Real Estate Broker’s License: Examination and Licensing Application Requirements.

**Property Management and Property Manager Definitions**

* **PP. Property management”**: real estate services as specified by a written management agreement between a property owner or owner association and a third party property management company; which includes, but are not limited to, the marketing, showing, renting and leasing of real property; the collection and disbursement of funds on behalf of owners or owner associations; the supervision of employees and vendors; the coordination of maintenance and repairs; the management of tenant relations; or the preparation of leases or rental agreements, financial reports, disclosure certificates, resale certificates, and other documents, or the undertaking of any of the foregoing activities on behalf of a homeowners’ or unit owners’ association. In the course of listing and marketing properties for sale, inspections of the property, repairs and maintenance incident to the sale and authorized by the owner shall not be considered property management. Advertising and taking reservations for vacation rental properties shall not be considered property management.
* **RR. Property manager”**: a broker who, for a fee, salary, commission or other valuable consideration, is engaged in managing property for others including owner associations. A residential property manager is an agent of the owner(s) of the property for the purpose of performing the obligations of the owner(s) under the Uniform Owner-Resident Relations Act and under the rental or lease agreement. A commercial property manager may be an agent of the owner(s) as determined by the contract with the owner(s).

**Disqualifying Criminal Convictions**

A list of disqualifying convictions must be published on the Commission website by no later than December 31, 2021.

**DEFINITIONS:**

 A. “disqualifying criminal conviction” has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978;

**CRIMINAL CONVICTIONS:**

 A. Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board/commission:

 (1) crime A;

 (2) crime B; etc.

 B. The board/commission shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

 C. The board/commission shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

 D. Nothing in this rule prevents the board/commission from denying an application or disciplining a licensee on the basis of an individual’s conduct to the extent that such conduct violated the \_\_\_\_\_\_\_\_ Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule.

 E. In connection with an application for licensure, the board/commission shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

 (1) an arrest not followed by a valid conviction;

 (2) a conviction that has been sealed, dismissed, expunged or pardoned;

 (3) a juvenile adjudication; or

 (4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this rule.

**Potential Disqualifying Convictions**

Physical Harm to Others

1. Murder
2. Manslaughter
3. Assault
4. Battery
5. Abandonment of a child resulting in death or great bodily harm
6. Abuse of a child
7. Kidnapping
8. False imprisonment
9. Sexual assault

Property Damage

1. Shooting at property
2. Criminal damage to property
3. Dangerous use of explosives
4. Graffiti
5. Arson

Fraud

1. Misrepresentation/fraudulent statements or alteration of documents
2. Improper sale, disposal, removal or concealing of encumbered property
3. Tax fraud
4. Conspiracy
5. Medicaid/medicare or insurance fraud
6. Money laundering

Theft

1. Breaking and entering
2. Larceny
3. Robbery
4. Burglary
5. Shoplifting
6. I.D. Theft
7. Credit card or other financial information
8. Receiving or transferring stolen property

Financial Crimes

1. Embezzlement
2. Extortion
3. Receiving stolen property
4. Forgery
5. Receiving illegal kickbacks
6. Racketeering
7. Falsification of documents
8. White Collar crimes

Drug Offenses

1. Drug Trafficking
2. Possession
3. Contributing to the delinquency of a minor

Sex Crimes

1. Distribution of pornography
2. Human Trafficking
3. Criminal sexual penetration or contact
4. Failure to register with the Sex Offender Registration and Notification Act

Miscellaneous

1. Felon in possession of a firearm
2. Bribery of an official
3. Accepting a Bribe
4. Gambling/gaming crimes
5. Stalking
6. Terrify, intimidate, threaten, harass, annoy or offend another
7. Escape from incarceration
8. DWI
9. Practicing a profession without a license/on a revoked or suspended license
10. Violation of the subdivision act, mortgage foreclosure act, mortgage loan company act or uniform money services act
11. Violation of the controlled substance act

Sections of the Rules that may need Amending

1. Disciplinary
2. Application
3. Credential/reciprocity
4. Renewal

**Expedited Licensure for Military Service Members, Spouses, Dependent Children and Veterans.**

**OBJECTIVE:** The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to 61-1-34 NMSA 1978.

**DEFINITIONS:**

 A. “License” has the same meaning as defined in Subsection F (1) of Section 61-1-34 NMSA 1978.

B. "Licensing fee" has the same meaning as defined in Subsection F(2) of Section 61-1-34 NMSA 1978.

C. “Military service member” has the same meaning as defined in Subsection F (3) of Section 61-1-34 NMSA 1978.

D. "Substantially equivalent" means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the \_\_\_\_\_\_\_\_\_\_\_ Act.

E. “Veteran” has the same meaning as defined in Subsection F (4) of Section 61-1-34 NMSA 1978.

**APPLICATION REQUIREMENTS:**

A. Applications for registration shall be completed on a form provided by the board/commission.

B. The applicant shall provide a complete application that includes the following information:

(1) applicant’s full name;

(2) current mailing address;

(3) current electronic mail address, if any;

(4) date of birth;

(5) background check, if required; and

(6) proof as described in subsection C below.

C. The applicant shall provide the following satisfactory evidence as follows:

(1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;

(2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and

(3) the following documentation:

a. for military service member: copy of military orders;

b. for spouse of military service members: copy of military service member’s military orders, and copy of marriage license;

c. for spouses of deceased military service members: copy of decedent’s DD 214 and copy of marriage license;

d. for dependent children of military service members: copy of military service member’s orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member’s federal tax return or other governmental or judicial documentation establishing dependency;

e. for veterans (retired or separated copy of DD 214 showing proof of honorable discharge.

 D. The license or registration shall be issued by the board/commission as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

 E. Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

 F. A license issued pursuant to this section shall be valid for the time that is specified in the \_\_\_\_\_\_\_\_\_\_\_ Act.

**RENEWAL REQUIREMENTS:**

 A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.\_\_.\_\_ NMAC pursuant to Chapter 61, Article \_\_\_NMSA 1978.

 B. As a courtesy, the board/commission will send via electronic mail license renewal notifications to licensees or registrants before the license expiration date to the last known email address on file with the board/commission. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date.

10. Review of Revised Rule Making Calendar (Attached)

9. Review and Approval of the Minutes of the Education Advisory Committee (EAC) Meetings of June 9 and July 14, 2021.

* Donald Oliva, **CE Broker** Presentation on CE tracking services. (10-15 Minutes) Recommended by the EAC as reflected in July 14, 2021 EAC Minutes.

10. Investigators Report

* Complaints received

May-5

June-5

July-1

Total for 2021-31

* Disciplinary Hearing schedule

* NMREC Case No. 20-04-10-026

Richard Laemmle & Jason Valentine

August 8, 2021 at 9:00 a.m. via WebEx

Hearing Officer- Commissioner Davis

* NMREC Case No. 19-08-03-056

 Pamela Woolley & Amber Hale

 August 17, 2021 at 9:00 a.m.

 Commission Office

 Hearing Officer-Commissioner Johnson

* NMREC Case No. 20-06-05-033

 James Patterson

 August 24, 2021 at 9:00 a.m.

 GAAR

 Hearing Officer- Commissioner Koether

11. Executive Session

1. Reports of Investigation
* NMREC Case No. 20-10-04-060
* NMREC Case No. 21-04-03-020
* NMREC Case No. 21-05-04-025
* NMREC Case No. 21-02-04-006
* NMREC Case No. 21-02-08-010
* NMREC Case No. 21-03-01-011
* NMREC Case No. 21-03-04-014
* NMREC Case No. 21-03-05-015
* NMREC Case No. 21-04-01-018
* NMREC Case No. 21-06-02-027
* NMREC Case No. 21-03-07-017
* NMREC Case No. 21-04-04-021
* NMREC Case No. 21-05-01-022

b. Settlement Agreements

* NMREC Case No.19-06-06-043, Cheryl Davis
* NMREC Case No.19-06-06-043, Elizabeth Cale

 c. Investigators Case Status Report

* NMREC Case No. 20-01-02-002
* NMREC Case No. 20-07-03-045

 d. Default Order

* NMREC Case No. 20-06-04-032, Donna Dawson

 e. Tabled Pending Civil Litigation

* NMREC Case No. 20-06-08-036

 f. Consideration of Additional Disciplinary Action

* NMREC Case No. 18-08-06-083, Lindsay Cavazos

12. Action on Items Discussed in Executive Session

13. Adjourn