



North Dakota Association of REALTORS®

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Nancy R. Willis, *Gov't Affairs Director*
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Minutes

2014 Government Affairs Committee

December 9, 2014 – 10:15 a.m. – 12:30 p.m.

Quality Inn - Jamestown

Present: Dave Lanpher, Chair; Tricia Schlosser, Chair-Elect; Greg Larson, Past Chair and Director-In-Charge; Scott Breidenbach; Diane Duchscher; Lyn Dwyer; Todd Fettig; Ben Hanson; Bob Lee; Steve Lunde; Sharon Lunski; Vicki Roller; Jeff Shipley; Mary Splichal; Mike Swartz and Dewey Uhlir.

Absent: Tom Beadle; Josh Boschee; Daryl Braham; Tate Cymbaluk; Kevin Fisher; Chad Johnson; Theresa Hart; Gary Kramlich; Scott Louser; Larry Louser; Joe Sheehan; Arlene Volk; Ron Volk; Jerry Youngberg; Shelly Zach and Diana Zietz.

Guests: Todd Anhorn; Shirley Dukart; Cindy Harvey; Doris Hill; Amy Hullet; Joyce Kuntz; Brad Livesay; Mary Shelkey-Miller; Lorrie Nantt; Kristin Oban; Ben Schroeder; Jodi Tollefson; Phil Vanyo, Ninetta Wandler; AE's: John Colter; Nancy Deichert and Beth Mayer . NDREC Executive Director: Pat Jergenson.

Staff: Jill Beck, Jane Marum, Nancy R. Willis

1. Dave Lanpher, Chair, called the meeting to order, welcomed everyone and introductions were made.
2. The Minutes of the July 23, 2014 meeting were approved as distributed. **M/S/C**
3. Legislative Issues were discussed as follows:
 - a. ND Real Estate Commission bill – amends 43-23-13.1 (License renewal) from the current application deadline of December thirty-first of each year to “the application deadline set by the commission.” The penalty for practicing without a license would be amended to say that any person violating 43-23-05 (Real estate license required) “is guilty of a class A misdemeanor”. During discussion, Pat Jergenson, ND Real Estate Commission Executive Director said the intent would be for the changes to be effective for 2015. Jergenson was asked why these two items were not contained in separate bills and she said it was on the



recommendation of the Commission's attorney and has already been pre-filed. Members asked about the specific date of renewal and Jergenson said the date will be set by administrative rule. Someone asked about notification when the date is set and would this apply to 2015. Jergenson said the administrative rule process is stipulated by law and requires a public hearing and notification when changes take place, so REALTORS® will have opportunity for input and will be notified and that it was the Commission's intent that this change be effective in 2015. Members also expressed concern with E&O insurance deadlines if changing to an earlier license renewal date. Jergenson said she will do research on the E&O insurance issue. Someone asked why everyone doesn't do renewals online. She said they will be conducting a survey this year of those not renewing online to determine what is preventing that and said the Commission has been exploring databases that would allow licensees to print out licenses themselves. Cost for these systems has been the reason no decision has been made as of yet. **A motion was made recommending that the Board of Directors support this legislation. M/S/C**

- b. Real Estate appraiser Qualifications and Ethics Board bills – two bills were reviewed. The first bill amends and reenacts subsection 2 of section 43-23.3-03, sections 42-23.3-04, 43-23.3-04.1, 43-23.3-09 and 43-23.3-24 of the NDCC relating to real estate appraiser permits. Legislation is amended to come into compliance with Federal law and the board's accrediting body. In order to address reporting on E&O Insurance when anonymous complaints are involved or do not rise to a level of an action the board takes forward, the second bill amends and reenacts section 43-23.3-22 Disciplinary proceedings - by adding a number 3 which reads "A signed or unsigned allegation from the public is not a complaint until the board determines that there is a reasonable cause to initiate a disciplinary proceeding against one or more applicants or permittees." **A motion was made recommending that the Board of Directors support both of these bills. M/S/C**
- c. NDAR Small Claims Court Jurisdictional limits – Venue bill – this bill was introduced at the request of NDAR and its General Counsel, Casey Chapman. The bill draft has been completed by Legislative Council. Primary bill sponsor is Diane Larson. A copy of the bill draft will be distributed as soon as NDAR has obtained one. Members will be asked to testify on its behalf when the time comes.
- d. Home Warranty Bill – REALTOR® and Rep. Scott Louser asked that the committee review the text of a bill introduced in the 2005 Legislative Session dealing with home warranties. From a six-page bill, the resulting law enacted as a new section to chapter 43-07 of the NDCC requires the homeowner to give notice within six months after knowledge of a defect and give the contractor reasonable time to provide a response, or if appropriate, to remedy the defect within a reasonable time thereafter. Reasonable time is 30 days and the contractor is responsible for providing notice to the purchaser or owner of this section of the law upon completion of work. Louser would like to re-introduce the original bill or a similar bill that would specify homeowner warranties at specific times after completion of home construction or improvement. Committee members asked about the ND Association of Builders' position on this bill. Willis said the original bill was sponsored by the builders and they are reviewing the text again at Louser's request but have not yet taken a position. Willis said in talking to the ND

Association of Builders' board this past summer, they communicated a greater concern about how to keep contractors with poor records from continuing to build. She said when the RPAC trustees met with Al Jaeger during RPAC interviews, the issue was brought up. Jaeger agreed that the cost of licensure was very low and no requirement for bonding existed. He said his office and the Attorney General's office had discussed remedies including the creation of a board similar to the Real Estate Commission, but the variety of and number of contractors made this unfeasible. The committee encouraged NDAR staff to meet with The ND Association of Builders to determine if collaboratively something can be done to address the contractor issue. **A motion was made recommending that the Board of Directors support Rep. Louser's pursuit of home warranty legislation. M/S/C**

- e. ND Land Title Association bills – Nick Hacker, President, ND Guaranty & Title Co. and NDLTA Government Affairs Committee Chair asked for NDAR's support and called in to provide information about the bills. The first bill reviewed was a change to NDCC chapter 26.1-20-04 which prohibits ND title insurance companies from exposing themselves to a loss on any one risk or hazard to an amount exceeding 50% of its paid-up capital and surplus if a stock company, or 50% of its surplus if a mutual company, unless the excess is reinsured. NDLTA is proposing increasing the amount to 90% if the amount is reinsured. Also would allow title companies to acquire reinsurance from a non-admitted title insurer (out-of-state) or an insurer other than a title insurer. Hacker said this bill would not affect residential REALTORS® to a great extent but would lower the cost of providing insurance on very, very large transactions. **A motion was made to table a recommendation to the Board of Directors until a bill draft and more information were available. M/S/C**

The second bill would amend NDCC chapter 43-01-18 Fees chargeable by abstractor – to increase the fee “for each entry on an abstract or continuation of an entry on an abstract” from \$10 to \$15; for certifications from \$100 to \$150 and for searches from \$5 to \$10. Hacker said the bill was needed to enable an increase in abstractor salaries to be competitive with market. **A motion was made to recommending that the Board of Directors support. M/S/C**

The third bill would be to request a legislative study of establishing flat fees for mortgage and other recording fees. Hacker said currently the fee is not capped and cases exist where the highest bidder had his/her recording moved to the front of the line. A motion was made recommending that the Board of Directors support. **M/S/C**

- f. Taxation and Governor's Budget Summary – At this point in the meeting, Willis reviewed titles of and summarized additional bills that have come out of the interim legislative committees that NDAR will follow. Willis also drew everyone's attention to a summary of the Governor's Budget for the 2015-2017 Biennium that was included in their packet.
4. Calls for Action (CFA) – Lanpher reviewed the two Calls for Action: Mortgage Debt Forgiveness and Terrorism Risk Insurance Act (TRIA) for information. Both have passed in the U.S. House and now await Senate action.

5. Other –

- a. Willis told the committee that Sen. Hoeven's office had called NDAR to let them know that Sen. Hoeven and Rep. Cramer were aware of an interceding on an issue where Fargo is asking FEMA to allow basement floors at the current level when they finalize rules next month. The rules would raise the estimated level of a once-every-year flood by a foot on Jan. 15, which would automatically require basement floors to be built a foot higher to be eligible for federal flood insurance.
- b. Jill Beck told the committee that NDAR did not join the coalition opposed to Measure 5 upon the advice of our ad agency so as not to jeopardize Measure 2. However, she knows that some local boards joined and we have been asked by GNDC to join, as they are going to keep it in place. After attending several meetings, staff's recommendation would be to remain neutral as the relationship between the pro and con groups still is very contentious. Lanpher asked if the committee wanted to take any action regarding participation in the coalition. Consensus was to follow staff's recommendation.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Nancy R. Willis, GAD