

**New Mexico Real Estate Commission  
Rule Hearing  
October 20, 2020  
Greater Albuquerque Association of Realtors  
1635 University Boulevard NE  
Albuquerque, New Mexico**

**MINUTES**

**Commissioners Present: Gretchen Koether, President  
Greg Foltz, Secretary  
Kurstin Johnson, Member**

**Commissioners Attending  
Via Zoom: Bill Davis, Vice President  
Lindsay Rollins, Member**

**Staff Members  
Attending via Zoom: Wayne W. Ciddio, Executive Secretary  
Tom Baca, Education Administrator  
Lyn Carter, Investigator  
Perry Bryant, Investigator  
Valerie Martinez, Investigator**

**Others Attending via  
Zoom: Lori Chavez, Assistant Attorney General  
and Commission Counsel**

- 1. Call to Order and Welcome- Gretchen Koether, President**
- 2. Roll Call and Determination of Quorum**
- 3. Pledge of Allegiance**

#### **4. Opening of the Rule Hearing**

Commissioner Koether, acting as the Hearing Officer, made the following statement and detailed the rule hearing procedure.

This hearing will please come to order. Let the record show that this hearing is convened at 9:00 a.m. My name is Gretchen Koether.

I will be serving as the Hearing Officer and be advised by Lori Chavez, Assistant Attorney General and Commission Counsel.

The purpose of this hearing today is for the Commission to receive public comment on the proposed amendments to the following Real Estate Commission Rules

Part 1- Definitions and General Provisions

Part 3- Licensing and Examinations

Part 7- Fingerprinting

Part 11- License Expiration and Renewal

Part 13- Continuing Education

Part 15- Approval of Courses, Sponsors, and Instructors

Part 16- Qualifying Broker; Affiliation and Responsibilities

Part 17- Associate Broker; Affiliation and Responsibilities

Part 19- Brokerage Relationships and Broker Duties

Part 20-Transaction Coordinators

Part 23- Trust Accounts

Part 24-Property Management

Part 32-Real Estate Advertising

This hearing is being conducted at the offices of the Greater Albuquerque Association of Realtors located at 1635 University Blvd, Albuquerque, New Mexico in accordance with the provisions of the Real

Estate Brokers and Salesmen Act, the Uniform Licensing Act, and the State Rules Act. The hearing is being transcribed by a court reporter from Bean and Associates. Anyone interested in purchasing a copy of the transcript should contact Bean and Associates at 843-9494.

Public notice of this hearing was advertised in the New Mexico Register, the Albuquerque Journal, and on the Commission's web site. Texts of the proposed rule changes are posted on the Commission's website.

A record of those attending today this hearing either in person or through Zoom will be documented by pre-registrations with GAAR and the attendance sheet at the back of the room. The attendance roster will be entered into the hearing record as an exhibit at the close of the hearing.

This rule hearing will be conducted in the following manner:

Tom Baca, the Commission's Education Administrator, will present pre-filed exhibits. Exhibits admitted into evidence are available for review by the public, but exhibits may not be removed from this room.

After all exhibits are entered, Mr. Baca will display the proposed rule amendments a section at a time on the screen and give a brief introduction of the proposed change and the reason for it.

Members of the Rules Sub-Committee will then discuss each amendment in more detail, as necessary, and I will open up the floor to the audience for their comments. If appropriate, I as the Hearing Officer can ask questions and may recognize members of the public to ask questions of other members of the public who have testified.

After public comment, I will open the floor for members of the Commission to comment and ask questions.

We will follow the same sequence for each rule change under consideration, and when discussion is complete, I will ask the Commission to vote on whether the proposed change should go forward for final adoption at a Special Meeting on November 2.

This hearing is not subject to judicial rules of evidence. However, in the interest of efficiency, I reserve the right to limit any testimony deemed irrelevant, redundant, or unduly repetitious.

For the record, would the members of the audience who intend to testify during the rule hearing please introduce yourselves and state your affiliation, or in the case of those attending by Zoom, use the “raise your hand” or the “chat” features to be recognized.

In order to ensure that the hearing is accurately recorded, only one person at a time will be allowed to speak and will only speak after being recognized by the Hearing Officer.

When the Hearing Officer recognizes you:

- 1) Identify yourself by name for the court reporter each time you are recognized to speak; and
- 2) Speak loud and clearly so the court reporter can accurately record your comments.

**Note: The exact texts of the proposed amendments and the testimony given by witnesses during the rule hearing are not included in these minutes. They are in the transcript of the rule hearing transcribed by Bean and Associates which is available for public inspection upon request.**

This hearing is now open. Mr. Baca do you have any exhibits to introduce in to the Hearing Record?

Mr. Baca: Madame Hearing Officer, I have the following exhibits to enter into the record:

Exhibit No. 1 is the proposed rule changes posted on Commission web site.

Exhibit No. 2 is the notice of this rule hearing that was published in the New Mexico Register on September 14, 2020.

Exhibit No. 3 is the notice of this rule hearing published in the Albuquerque Journal on \_\_\_\_\_.

Exhibit No. 4 is a copy of the notice of this rule hearing posted on the Real Estate Commission web site on \_\_\_\_\_.

Exhibit No. 5 is a comment document submitted by Gloria Regensberg, Boards and Commissions Division Attorney with the Regulation and Licensing Department.

Exhibit No. 6 is a comment document submitted by Kay Azbill, Marykay Gutierrez, and Alice Tozier.

(The Attendance Roster will be the last exhibit introduced and should be numbered accordingly).

Commissioner Koether. Exhibits 1 through [1 through the last exhibit number) are hereby admitted into the record. If there are no other preliminary matters we will proceed with introduction of the amendments.

Mr. Baca: The first proposed amendments for consideration are to Part 1, General Provisions and Definitions. The proposal of the Rules Subcommittee is to amend the definitions of Agent, Paragraph C; Core Elective Course, Paragraph N; Custodial Account, Paragraph P; Non-

Core Elective Course, Paragraph ii; and Property Management, Paragraph PP.

The reason for these amendments is to update the Commission's terminology, and to clarify and fill in the gaps of definitions that were found to be lacking.

Madame Hearing Officer, I yield to members of the Rules Subcommittee for further explanation.

Commissioner Koether: Would anyone from the public like to comment on the proposed amendments to Part 1?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of any of the Witnesses who have testified?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 1 be considered for final adoption at the Special Commission Meeting on Nov. 2.

Commissioner Bill Davis moved that the proposed amendments to Part 1 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Kurstin Johnson seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 3, Licensing and Examinations, to exempt military service members and their families and veterans who completed their active duty military service no longer than three years ago from licensing fees for their first licensing cycle.

The reason for the amendments is to bring the Commission Rules in compliance with State Senate Bill 30, which provides for expedited licensing and fee waivers for military service members applying for a wide range of professional and occupational licenses in New Mexico for the first time.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address this amendment in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 3?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 3 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Greg Foltz moved that the proposed amendments to Part 3 be recommended for adoption at the Commission Special Meeting on November 2, 2020. Commissioner Johnson seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendment would amend Part 7, Fingerprinting, to eliminate the requirement that real estate brokers be fingerprinted at the time of license renewal but

would still be required to be fingerprinted at the time of initial licensure and subject to a criminal background checks at the time of renewal.

The reason for the amendment is to bring the Commission Rules in compliance with State House Bill 99, which prohibits most licensing agencies from requiring fingerprinting as a condition of license renewal.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address this amendment in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 7?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 7 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 7 be recommended for adoption at the Special Commission meeting on November 2, 2020. Commissioner Davis seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 11, License Expiration and Renewal. The reason for the amendment is to clarify the conditions under which the Commission may grant a waiver of the late renewal fee for brokers for medical reasons or to active duty military members.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address this amendment in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 11?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 11 be considered for final adoption at the Special Commission Meeting on Nov. 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 11 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Lindsay Rollins seconded the motion and it carried unanimously.

Madame Hearing Officer the next proposed amendments would amend Part 13, Continuing Education Requirements.

The amendments clarify Core Course requirements, provide a mechanism for brokers to make up annual Core Courses they have missed, and allow a carryover of Core Course hours to the next licensing cycle under certain circumstances.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address this amendment in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 13?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend the proposed amendments to Part 13 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 13 be recommended for final adoption at the Special Commission meeting on November 2, 2020. Commissioner Davis seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 15, Approval of Courses, Sponsors, and Instructors.

The amendments clarify the definitions of Core Elective and Non-Core elective courses and replace the previous Education and Training category of courses with Core Elective, Non-Core Elective, and Ethics categories.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 15?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend the proposed amendments to Part 15 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 15 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Davis seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 16, Qualifying Broker: Affiliation and Responsibilities.

The amendments require Qualifying Brokers to develop office policies and procedures manuals for their brokerages, require intensive training, and close supervision of affiliated brokers.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 16?

Please identify yourself for the record.

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend the proposed amendments to Part 16 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 16 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Rollins seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 17, Associate Brokers: Affiliation and Responsibilities.

The amendments require associate brokers to work more collaboratively with their qualifying brokers to seek their advice and counsel in areas of a transaction with which they are not familiar and to identify and avoid potential problems.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 17?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend the proposed amendments to Part 17 be

considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 17 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Davis seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 19, Brokerage Relationships and Broker Duties.

The amendment requires a broker who is engaged by a customer or client as a limited service broker to disclose such arrangement to all other brokers involved in the transaction. This language was inadvertently deleted from the rules in a previous rule making and this amendment restores the language.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendment to Part 19?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 19 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 19 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Rollins seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 20, Transaction Brokers/.

The amendment clarifies language in the current rule regarding broker duties and responsibilities owed by Transaction Coordinators.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 20?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 20 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 20 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Rollins seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 23, Trust Accounts.

The amendment adds “custodial accounts” to accounts that are required to be reconciled by the qualifying broker.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 23?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 23 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 23 be recommended for final adoption at the November 2, 2020 Special Commission Meeting. Commissioner Rollins seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 24, Property Management.

The amendment would clarify the Qualifying Broker's responsibility to reconcile property management trust accounts and custodial accounts as they pertain to property management.

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 24?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 24 be considered for final adoption at the Special Commission Meeting on November 2, 2020.

Commissioner Foltz moved that the proposed amendments to Part 24 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Rollins seconded the motion and it carried unanimously.

Mr. Baca: Madame Hearing Officer the next proposed amendments would amend Part 32, Real Estate Advertising.

The amendment would require brokers who are buying or selling their own property or property they will own to disclose in advertising that they are licensed brokers

Madame Hearing Officer, I yield to the members of the Rules Subcommittee to address these amendments in further detail.

Commissioner Koether: Would anyone like to comment on the proposed amendments to Part 32?

Would anyone in the audience like to ask any questions of this witness?

Do Commissioners have any questions for members of the Rules Subcommittee or any of the witnesses?

If there are no further questions or comments, I would entertain a motion to recommend that the proposed amendments to Part 32 be considered for final adoption at the Special Commission Meeting on Nov. 2.

Commissioner Foltz moved that the proposed amendments to Part 32 be recommended for final adoption at the Special Commission Meeting on November 2, 2020. Commissioner Rollins seconded the motion and it carried unanimously.

Closing the Hearing

Is there anyone else who has a comment or question before we close the hearing?

Commissioner Koether: Has everyone present signed the attendance sheet or in the case of those attending by Zoom registered to attend this hearing? If not please do so that the Attendance Sheet can be marked as an Exhibit

At this time, the attendance sheet shall be marked as Exhibit No. \_\_\_\_

If there are no questions, I admit Exhibit #s \_\_\_\_\_ into the record.

The comments submitted and testimony heard during this rule hearing will be reviewed by the Commission and discussed during a Special Meeting on November 2, 2020. The Commission will vote on the proposed amendments during that meeting.

I would like to thank everyone present for their participation today.

Let the record show that this public hearing was adjourned at 4:03 p.m.