



Protecting Texans' Dreams

October 16, 2018

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Texas Sunset Advisory Commission
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RE: Sunset Advisory Commission Staff Report and Recommendations for the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board

Thank you for the opportunity to submit written comments regarding the Sunset Advisory Commission Staff Report (Staff Report) for the Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB), together referred to as "the Agency."



TALCB Board Members

Jamie S. Wickliffe
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Commissioner

First and foremost, we appreciate the time and effort that went into the preparation of the Staff Report. We understand its focus on the customer service issues, a key area needing sustained improvement. Going through this process has helped the Agency to explore new ways of understanding and addressing these challenges. However, we also note that the Staff Report does not convey the full picture of the customer service issues and the reserve for a potential building, or the Agency's attention and responses to these matters. For example, the Staff Report conflates the Agency's struggles with some of its customer service issues, particularly those related to the call center, with an overall inability to carry out the Agency's regulatory mission. While the Agency acknowledges that its incremental approach to resolving customer service problems as they arose later required a more aggressive approach, at no time did the Agency's policy makers, or its staff, neglect its mission to safeguard the public interest, protect consumers of real estate services, and facilitate economic growth and opportunity across Texas.

In fact, over the last several years, the Agency has successfully taken steps to improve the education standards to obtain a license, strengthen broker responsibility to ensure brokers and their sponsored agents are acting in the best interest of their clients, and implement methods that make it easier for a consumer to find vital information they need about a license holder. In addition, the Agency has made it much easier for

license holders to manage their licenses through online tools. Examples include self-service automation of managing appraiser panels, sales agent sponsorships and business names via our online Panel Management Tool, Relationship Management Tool and Name Management Tool. The Association of Real Estate License Law Officials (ARELLO), a body made up of state and international real estate regulatory agencies, has routinely recognized the Commission for excellence in continuing education courses, website and newsletter communications, and online delivery of meetings and minutes. An article published in August of this year, singled out the Agency as the only state regulatory entity in the nation that provides a flexible search engine to find information concerning a real estate license holder's disciplinary action, and ranked the Agency's search engine number one for its functionality and ease of use.¹ The Staff Report also fails to recognize the Board is subject to federal law and oversight by federal regulators. In fact, the Board has an audit by federal regulators every two years and regularly receives "excellent" or "good" ratings.

The Staff Report implies the impending Sunset review was the catalyst for more substantive measures the Agency undertook to address the ongoing customer service issues. This implication is inaccurate. While it is true that many steps the Agency took to improve customer service coincided with the Sunset staff review, it is wrong to suggest any lack of effort or urgency on the part of the Agency as it pursued incremental steps to resolve customer service issues. Even with its SDSI status, the Agency must properly analyze the underlying cause of problems and adhere to state contracting procedures. These processes began in May 2017, almost one year prior to Sunset staff's arrival.

As stated above, it is misleading to focus solely on the issues surrounding the call center and imply an overarching failure of the Agency to fulfill its mission. Over the last several years, as the Agency has witnessed record numbers of new applicants and issued and renewed more licenses each year than it did the previous year. Furthermore, the Agency has never failed to renew licenses prior to their expiration date. The Agency has made great strides over the last six months to improve customer service and is continuing to pursue long-term solutions to ensure that persons contacting the Agency are served timely and efficiently. In our response to recommendations in the Staff Report, the Agency will point out instances where Sunset staff takes information out of context, and we will add context and insight to give the Sunset Commission a more accurate picture.

The Staff Report identifies four major issues, which it describes in some detail and which are followed by key recommendations. The Agency's response follows this same structure. Each issue and recommendation from the Staff Report is repeated below and is followed by a discussion of the specific factors related to that recommendation. TREC and TALCB held a joint meeting on October 12, 2018, at which eight (8) members of the Commission and seven (7) members of the Board were present and participated, and one (1) member of the Commission and two (2) members of the Board were absent. The Commission and the Board considered the Staff Report, open discussions were held, and votes were

¹ <https://therealdeal.com/2018/08/29/analysis-new-york-is-one-of-the-worst-states-for-getting-info-on-broker-violations/>

taken to ensure an accurate representation of consensus is offered. Specific items of dissent are included where relevant. Items that affect both policy making bodies were voted on by both bodies separately, and both votes are noted parenthetically. If an issues affects only one policymaking body, only the vote of that body is included.

The Agency respectfully submits the following comments regarding the issues and recommendations included in the Staff Report.

Issue 1:

Texas Should Continue Regulating the Real Estate Industry, but the Agency Has Not Used Its SDSI Status to Best Meet the Needs of License Holders or the Public.

Recommendations for Issue 1:

Change in Statute

- 1.1 Continue the Real Estate Commission and Appraiser Board for six years and place them under the SDSI Act.**

RESPONSE:

The Texas Real Estate Commission (7-1) and the Texas Appraiser Licensing and Certification Board (7-0) (collectively the "Agency") agree with the Sunset Staff recommendation to continue the Real Estate Commission and Appraiser Board for six years. However, after due consideration of the differences between Chapter 1105, Occupations Code, and Chapter 472, Government Code, the Agency respectfully disagrees that the Agency should be placed under the SDSI Act and instead recommends certain amendments be made to Chapter 1105.

DISCUSSION:

There are currently three separate statutes governing SDSI agencies in Texas:

- Chapter 472 of the Government Code was written specifically for the Texas State Board of Public Accountancy, the Texas Board of Professional Engineers, and the Texas Board of Architectural Examiners;
- Chapter 16 of the Finance Code was written specifically for the Texas Department of Banking, the Department of Savings & Mortgage Lending, the Office of Consumer Credit Commissioner, and the Credit Union Department; and

- Chapter 1105 of the Texas Occupations Code was written specifically for the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board.

Chapter 1105 was the last statute adopted by the Legislature with full knowledge of the two other statutes. Chapter 1105 contains several provisions specific to the Agency's operations that differ from Chapter 472. For example, administrative penalties for the Commission and Board do not go into operating revenues or general revenue. By statute, the Commission's administrative penalties go into the Real Estate Recovery Trust Account or Real Estate Inspection Recovery Fund, which are restricted to repayment of damages, court costs and attorney fees to consumers who have obtained a judgment against a license holder who does not have the assets to pay the judgment. *See* Tex. Occ. Code §1101.603. Similarly, since 2015, the Board's administrative penalties have been deposited into a restricted education fund to develop education programs for appraisers or conduct studies to enhance consumer protection. *See* Tex. Occ. Code §1103.552. In addition, Occupations Code §1105.007 more closely resembles the language regarding property found in Finance Code §16.007, not as in Government Code §472.108.

If Chapter 1105 were repealed and the Agency was placed under Chapter 472, several exceptions would need to be inserted into Chapter 472 regarding administrative penalties and property to allow the Agency to continue to better serve the public and stakeholders. Since the Staff Report recommends only a few specific items from Chapter 472, it would be more efficient and effective just to amend those sections of Chapter 1105.

Therefore, the Agency agrees the reporting requirement under Chapter 1105 could be amended to require the Agency to provide five years of trend performance data to the Legislature annually related to staffing, licensing, enforcement, fees, litigation costs, and reserve fund balances.

The Agency also agrees Chapter 1105 could be amended so the Agency would no longer pay annual retainers to the State Auditor's Office, the Office of the Attorney General, and the State Office of Administrative Hearings. Instead, the Agency would simply reimburse these agencies for any services rendered.

While the Agency understands the rationale behind the recommendation for a shortened Sunset review period, it respectfully disagrees with Sunset staff's description and analysis pertaining to the disengagement and lack of oversight by the Agency's policymaking bodies. Throughout the Staff Report, Sunset staff cites specific call center data without proper context to conclude that the Agency's policymaking bodies were disengaged and failed to properly oversee Agency operations. For example, Sunset staff chose to focus on the average hold times during the second quarter of FY 2018 (over 18 minutes), which was the peak of the Agency's customer service issues, but ignored data showing hold times averaged between 8 and 12 minutes for the majority of FY 2016 and FY 2017. During this three-year period, unacceptably high call wait times and processing delays were successfully reduced on prior occasions through specific process improvements and targeted resource enhancements. Past successes in dealing with specific

challenges reinforced the incremental approach the Agency took to meet its customer service obligations. The benefit of hindsight shows there were several steps the Agency could have taken to address some issues sooner. However, when it became clear that this approach was not producing the intended results, the Agency took a more aggressive approach to improving customer service.

The Staff Report also cites a chart illustrating 68% abandonment rate in January 2018 (also the second quarter FY 2018) but fails to report that the abandonment rate metric was not measured by the Agency due to lack of knowledge of the reporting capabilities of the call center system until June 2018. The Agency only became aware of that available reporting metric as a result of the call center audit it requested and which was completed in mid-June 2018 (referenced in the Staff Report). Once the Agency began tracking that metric, Agency staff took steps to reduce the abandonment rate and, as a result, the abandonment rate for July 2018 was 34%. As of the end of September, that rate was further decreased to 16%. Agency staff reported this new metric to policymakers for the first time at their quarterly meeting in August, along with the progress being made to reduce the rate. The abandonment rate data and the chart cited by Sunset staff were first produced for this August meeting, and Agency policymakers could not have taken action based on data and metrics not available to them before August.

With the data available to them at the time, Agency policy makers inquired about hold times at meetings over the past few years, urging improvements. It is simply inaccurate to conclude the Commission and Board members were not aware of these issues or not engaged in helping to identify and direct preferred solutions. Commission and Board Members receive regular briefings on key call center and application processing metrics at their quarterly meetings, and openly question Agency staff on the steps being taken to address unacceptable performance whenever the metrics reported fall below benchmark expectations. See Appendix A. Any claim that either personnel or technology expenditures were neglected is inaccurate. See Appendix B, Tables 4, 6 & 7.

Contrary to the Staff Report, the Agency began focusing on call center process improvements a year before the Sunset review. Agency staff started evaluating DIR and outsider vendor offerings, and speaking with other agencies about their current call center operations, as early as May 2017 in an effort to find solutions to reduce hold times and improve call routing. While that process was ongoing, the Agency recognized a clear need to accelerate the process and began taking additional steps. Those steps are shown in the *Key Steps to Improve Customer Service* chart found at page 17 of the Staff Report. Implementation of these steps has had a positive impact. Hold times and call abandonment rates have decreased, see Appendix A, and the volume of calls the Agency is able to handle on a daily basis has increased to 84% at the end of September, from the lowest volume cited in the Staff Report.

The Commission, the Board and Agency staff are committed to transform this recent lapse in processing calls and applications into new opportunities for providing higher levels of service through more innovations. Consequently, the Agency has committed substantial resources for FY19 to accelerate technology projects that will positively affect customer service. See Appendix B, Tables 6 & 7.

Management Action

1.2 Direct the Agency to evaluate and update its key performance measures.

RESPONSE:

The Commission (8-0) and the Board (7-0) agree with Sunset staff recommendation 1.2 to evaluate and update key performance measures to better quantify Agency performance.

DISCUSSION:

The Commission and the Board concur that some of the currently reported measures are inappropriate and that adopting robust outcome-focused measures will enhance Agency oversight and help identify areas of needed improvement sooner. Agency staff has already begun this process. In June 2018, the Agency began to review and report the number and percentage of abandoned call (calls in which the caller hangs up before speaking with an Agency representative). Reporting this new performance measure allows the Agency to see the impact of call center enhancements, such as the call routing menu implemented in June and the courtesy call back feature implemented in August. See Appendix A, Table 2 (showing a 17.3% decrease in abandoned calls between July and September 2018).

1.3 Direct the Agency to develop a budget policy that fosters more realistic, straightforward budgeting and fee setting.

RESPONSE:

The Commission (8-0) and Board (7-0) agree in part with Sunset staff recommendation 1.3 to develop a budget policy that fosters more realistic straightforward budgeting and fee setting. To that end, the Commission and Board have instructed Agency staff to work with each respective Budget Committee to propose revised budget policies for consideration at their respective meetings in November 2018.

DISCUSSION:

The Commission and Board support and strive to achieve effective budgeting and fee setting through a transparent budget development process. The Commission and Board also support the policy goals of accurately forecasting revenues based on actual real estate and appraisal market trends and returning excess revenues to license holders in the form of fee reductions once the Agencies' respective expenditures, operational reserves, and other reserves are adequately funded.

The Commission and Board have historically taken a conservative approach to budgeting and forecasting revenues to compensate for fluctuating trends in the real estate market. This conservative approach has allowed the Commission and Board to fund Agency operations and maintain sufficient reserves, while also maintaining or reducing fees for license holders without incurring a cost to the General Revenue Fund. Market trends in real estate have led to five years of consistent growth in the number of license applications, which has resulted in increased workloads, processing delays, higher call volumes, and customer service challenges. See Appendix B, Tables 1, 2, 3 & 5. Seeking more effective call center management software since May of 2017, the Commission and Board committed significant additional resources as part of their FY2018 planned expenditures and FY2019 budgets and have made great strides towards improving these pressing issues and will continue to do so. See Appendix B, Tables 4, 6 & 7.

While the Commission and Board agree developing a budget based on actual real estate and appraisal market trends could produce more accurate revenue projections and likewise agree their budget policies could provide more specificity and detail to guide the Agencies, the Commission and Board respectfully disagree that their conservative approach to budgeting should be entirely abandoned. The cyclical nature of real estate markets requires careful steps and adequate reserves to avoid the potentially negative effects of market trend reversals.

1.4 Direct the agency to update its fund balance policy to limit growth.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) agrees that the fund balance policies need to contain clear directives. While the Agency believes the reserve fund policies have served their purposes well, the Agency also acknowledges additional detail in the policy will enhance future effectiveness. To that end, the Commission and Board have instructed Agency staff to propose revisions to those policies for consideration at their respective meetings in November 2018.

DISCUSSION:

The Agency respectfully disagrees with the Sunset staff's characterization that the reserve fund policies it has adopted and operates under lack "meaning" and that the education reserves were improperly utilized. The Agency's reserve fund policies were established to give adequate direction to staff when developing the yearly budgets, to ensure excess revenues were appropriately allocated to achieve the Agency's strategic goals, and to deal with future contingencies. The Agency has worked closely with the Texas Facilities Commission since 2014 to determine the potential costs and benefits of constructing an appropriate facility in the Capitol Complex. The building reserve was created as part of the Agency's long-term strategic plan to achieve long-term occupancy expense reduction. This is a prudent use of the temporary excess resulting from the corresponding growth in new license applications when the real estate market is in a cyclical upturn. *See Appendix B, Tables 1 & 2.* In fact, no funds were placed in that particular reserve until all other personnel and technology related expenses and future needs had been assessed and provided for. *See Appendix B, Tables 4 & 6.* In addition, the Agency's reserve fund policies call for the consideration of fee reductions before making allocations to discretionary reserves, and fees were reduced in FY2015 and FY2017, and more fee reductions are planned for FY2019. *See Appendix B, Table 8.* Lastly, deducting the amount in the building reserve from the total accumulated reserves shown on page 20 of the Staff Report demonstrates the Agency has otherwise kept its operating reserves essentially the same since 2013.

The Commission's Reserve for Educational Development was initially established to ensure adequate resources would be available to cover the expenses to develop and maintain certain important required continuing education classes for our license holders, such as expanded legal update courses. Together with the Real Estate Center at Texas A&M University and other stakeholders, the Agency was also able to develop the annual Texas Residential Realty Summit (the Summit) a half-day educational event covering the most timely and relevant topics across different sectors of the real estate industry. As a new venture, it was anticipated that Summit expenses might need to be subsidized until it developed to a point of covering its own expenses. The Agency was pleased that the first two years of the Summit have not required any subsidy.

Having served its purpose, the Budget Committee of the Commission recommended that the Reserve for Educational Development be discontinued and all future expenses absorbed into normal operations. The Commission unanimously approved this recommendation at its regular meeting in August and this reserve no longer exists for FY2019.

The Board's Reserve for Educational Development is mandated by statute, and the Board has utilized these reserve funds as required in the statute to develop education programs for appraisers and to conduct customary and reasonable fee studies to enhance consumer protection.

Per its written policy guidance, funds from both reserves for Educational Development were used to pay expenses for certain Agency staff and Commission and Board members to attend national and regional conferences of policy makers and regulators, since these conferences are educational-driven events. The Agency agrees these expenses could also have been paid from the Agency's operational accounts, and the Agency will do so going forward.

Issue 2:

Key Elements of the Real Estate Commission's and Appraiser Board's Licensing Functions Do Not Conform to Common Licensing Standards.

Recommendations for Issue 2:

Change in Statute

2.1 Eliminate instructor approval authority.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) agrees with this recommendation to eliminate instructor approval authority only if the Board and Commission retain authority to set minimum education and experience standards providers must follow when hiring instructors to present qualifying and non-elective continuing education courses.

DISCUSSION:

Real estate brokerage and inspection classes rely heavily on the instructor's experience and expertise for effective learning. The Agency's minimum standards for instructors are similar to college accreditation standards that require course instructors to have specific expertise in the field being taught. The Agency agrees that approving instructors can effectively be done by providers as long as Agency standards for minimum education and experience requirements are maintained by the providers. Otherwise, consumers of real estate education and ultimately consumers of real estate services will be harmed.

If the Sunset Commission adopts this recommendation to eliminate instructor approvals, the Agency requests the Sunset Commission to recommend inclusion of specific authority in the enabling acts for both the Commission and the Board allowing each agency to set minimum education and experience standards for instructors who may be employed by providers.

2.2 Eliminate the branch office license.

RESPONSE:

The Commission (8-0) agrees with this finding and, through its appointed Broker Responsibility Working Group, has already identified this as a potential area for the elimination of unnecessary regulation.

2.3 Remove a subjective qualification required for licensure applicants.

RESPONSE:

The Commission (7-1, Commissioner Stephens dissented due to a concern for fairness) and Board (7-0) disagree with Sunset staff recommendation 2.3 to remove a subjective qualification for licensure.

DISCUSSION:

The requirement for applicants to be of “good moral character” is supported by many years of legal precedent, and the Commission and Board rely on this requirement to review more than just an applicant’s criminal history. This requirement allows the Commission and Board to review an applicant’s disciplinary history with other licensing agencies in Texas and in other states, as well as civil judgments against an applicant. Such authority is likewise consistent with federal law, which requires the Board to ensure that “[a]ll applicants for a real property appraiser credential shall possess a background that would not call into question public trust.”²

Adopting this recommendation would frustrate the Board’s ability to comply with federal law and would be inconsistent with Sunset staff Recommendation 2.5 in which Sunset staff acknowledges and agrees that the Commission and Board should consider more than an applicant’s criminal history when reviewing applications. For these reasons, the Commission and Board disagree with this recommendation.

² See Appraiser Qualifications Board, *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria*, at 11-12 & GN-9 (eff. May 1, 2018).

2.4 Remove statutory provisions requiring certain applicants to establish Texas residency before obtaining a Texas real estate license or appraiser approval.

RESPONSE:

The Board (6-1) agrees with the Sunset staff recommendation to remove the requirement for applicants to establish Texas residency before obtaining a Texas appraiser approval.

The Commission (8-0) agrees with the Sunset staff recommendation to remove the requirement for applicants to establish Texas residency before obtaining a Texas real estate license, so long as specific language is added to ensure license holders have geographic competency in the market area in which services will be provided.

DISCUSSION:

While the Commission understands the rationale for the recommendation to remove the residency requirements for applicants, the Commission has concerns about weakening its ability to protect consumers of real estate transactions in Texas. Unlike some other licensing and regulatory agencies, persons licensed by the Commission and Board must maintain a level of geographic competency to properly carry out their duties in the best interest of their clients. Once a person is licensed, there is a fundamental consumer protection need that a person offering brokerage or inspection services in Texas have a familiarity with the specific sector of the Texas real estate market in which they will offer their services. If the residency requirement is repealed, clear language should be added to the Commission's enabling act requiring license holders to have geographic competence in the relevant market area to be served.

Because federal law as enforced by the Board already requires geographic competency for appraisers, no corresponding amendment to the Board's enabling act is needed.

2.5 Authorize the Real Estate Commission and Appraiser Board to deny license renewal applications for noncompliant applicants.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) agrees with Sunset staff recommendation 2.5 to authorize the denial of license renewals for applicants who are not in compliance with Commission or Board orders.

Management Action

2.6 Direct the Real Estate Commission to review and streamline its inspector pre-licensing education requirements.

RESPONSE:

The Commission (8-0) agrees with Sunset staff recommendation 2.6 to review and streamline its inspector educational requirements, including the removal of redundant education courses for inspector applicants. The Commission has long sought to make education meaningful, efficient, and not unnecessarily burdensome and has made progress in this regard by focusing on the quality of education required and not the quantity.

Issue 3:

The Real Estate Commission's and Appraiser Board's Enforcement Processes Cannot Fully Ensure Fair Treatment of Licensees and Complainants.

Recommendations for Issue 3:

Change in Statute

3.1 Require the Real Estate Commission and Appraiser Board to maintain complainants' confidentiality when possible.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) disagrees with Sunset staff recommendation 3.1.

DISCUSSION:

The Legislature has previously considered and rejected this policy choice, since the enabling acts for both the Commission and Board currently require complaints to be submitted in writing or specifically prohibit investigations based upon an anonymous complaint. See Tex. Occ. Code §§1101.204(b) (requiring submission of a "signed, written complaint"), (f) (prohibiting investigation on the basis of an anonymous complaint); & 1103.451 (requiring complaints to be submitted in writing). More importantly, this Sunset staff recommendation appears to violate Due Process. Constitutional rights of Due Process and fundamental fairness, as well as practical considerations that arise when investigating a complaint, outweigh complainant confidentiality and require a respondent be given information, including the complainant's identity, to

participate in the investigative process, respond to alleged violations, and prepare a defense. Maintaining complainant confidentiality from the outset of an investigation could unnecessarily preclude a respondent from adequately responding to alleged violations, hinder the Commission's and Board's ability to investigate complaints, and create delays and inefficiencies in the investigative process. Even if the Commission and Board were to redact a complainant's identity and contact information when notifying a license holder that a complaint has been received, the license holder could identify the complainant based on other information in the complaint, such as the address of the property on the real estate sales contract or the appraisal.

Should the Sunset Commission adopt this recommendation, statutory changes will be required. As noted above, the enabling acts of both the Commission and Board currently require compliance with Constitutional Due Process. Neither enabling act authorizes the Commission or Board to redact, withhold, or otherwise remove identifying information about a complainant when providing notice of a complaint to a respondent. Without statutory changes, the Commission and Board cannot comply with this Sunset staff recommendation to maintain complainant confidentiality.

3.2 Authorize the Real Estate Commission to dismiss low-level complaints and delegate this authority to staff.

RESPONSE:

The Commission (8-0) agrees with Sunset staff recommendation 3.1 to authorize the Commission to dismiss low-level complaints and delegate this authority to staff.

3.3 Authorize the Appraiser Board to order refunds to consumers.

RESPONSE:

The Board (7-0) agrees with Sunset staff recommendation 3.2 to authorize the Board to order refunds to consumers. This recommendation is consistent with the Board's consumer protection mission, as well as the Board's consideration of mitigating factors in disciplinary proceedings under its current rules and penalty matrix.

Management Action

3.4 Direct the Real Estate Commission to develop standard rules and procedures for handling each phase of the complaint process.

RESPONSE:

The Commission (8-0) agrees with this recommendation, but notes the Commission currently has clear and detailed written procedures for all staff duties involved in processing complaints. Since the date of the Staff Report, the Commission has assembled these existing documents into a single policy and procedure manual.

3.5 Direct the Real Estate Commission and Appraiser Board to document and track nonjurisdictional complaints.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) agrees with this Sunset staff recommendation.

3.6 Direct the Appraiser Board to prioritize complaint investigations based on the risk each complaint poses to the public.

RESPONSE:

The Board (7-0) agrees with Sunset staff recommendation 3.6 to prioritize complaint investigations based on the risk each complaint poses to the public. To implement this recommendation, the Board requests specific statutory authorization similar to the statutory authorization provided to the Real Estate Commission in Occupations Code §1101.204(h).

DISCUSSION:

This recommendation is consistent with the Board's mission to protect consumers. Federal law requires the Board to resolve complaints within one year, and this recommendation will help the Board focus staff and investigative resources towards resolving high-risk complaints over those posing little risk of harm to consumers.

3.7 Direct the Appraiser Board to develop a plan to improve its investigative process and reduce complaint resolution timeframes.

RESPONSE:

The Board (7-0) agrees in part with Sunset staff recommendation to develop a plan to improve its investigative process and reduce complaint resolution timeframes.

DISCUSSION:

The Staff Report notes the Board has set an internal goal of resolving all complaints within nine months or 275 days. While this internal goal was set only 2 years ago, the Board acknowledges it has been unable to meet this goal. However, federal law requires the Board to resolve all complaints within one year, and both Sunset staff and the Board agree this federal requirement has been met for the past four years.

The Sunset Commission Licensing and Regulation Model requires agencies to “ensure that [complaint] investigations are completed in a reasonable amount of time.” Federal law has already established that a reasonable time for the Board to resolve all complaints is one year from the date a complaint is received.

Consistent with its internal goal of resolving complaints within 275 days, the Board began evaluating its internal processes to improve complaint resolution timeframes in 2017. The Board has already identified several issues contributing to higher complaint resolution timeframes and will continue to work with stakeholders to improve the Board’s investigative process, including intake processing, length of investigation, and attorney review and processing. A recent investigator vacancy persisting for 6 months has further contributed to lengthy complaint resolution timeframes. The Board filled that position in September 2018 and is confident this new hire, in addition to addressing these issues identified by staff, will reduce complaint resolution timeframes.

Issue 4:

The Commission's and Board's Statutes Do Not Reflect Standard Elements of Sunset Reviews.

Recommendations for Issue 4:

Change in Statute

4.1 Update and apply standard across-the-board recommendations to the Real Estate Commission and Appraiser Board.

RESPONSE:

The Agency (Commission 8-0; Board 7-0) agrees with the Sunset staff recommendations in this section.

DISCUSSION:

The Board agrees Qualifications for Public Members, including clarifications of Conflicts of Interest standards and Grounds for Removal should be added to the Board's enabling act.

While the Agency provides a robust manual of training materials to each new appointed member and has a formal training requirement that it carefully adheres to, the Agency agrees the addition of new relevant materials and the annual attestation of understanding by policymakers will have a beneficial effect.

4.2 Authorize the Appraiser Board to establish advisory committees in rule as needed.

RESPONSE:

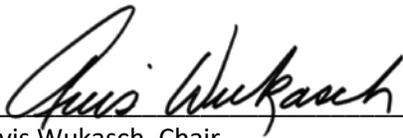
The Board (7-0) agrees with Sunset staff recommendation 4.2 to grant the Board the authority to establish advisory committees by rule. The Commission already has that authority under Texas Occupations Code §1101.158. Granting the same authority to the Board provides the Board flexibility to access available expertise on important appraiser-related issues as they arise and would also provide consistency across the Agency.

4.3 Repeal the Real Estate Commission's and Appraiser Board's SDSI annual and biennial reporting requirements.

RESPONSE:

The Agency (Commission 6-2; Board 7-0) respectfully disagrees with this Sunset staff recommendation as written. As earlier explained in the Agency's response to Issue 1, Recommendation 1.1, and as detailed above, the Agency should be required to provide five years of trend performance data to the Legislature annually related to staffing, licensing, enforcement, fees, litigation costs, and reserve fund balances, and this should be accomplished by an amendment to Chapter 1105, Texas Occupations Code.

Respectfully submitted,



Avis Wukasch, Chair
Texas Real Estate Commission



Jamie Wickliffe, Chair
Texas Appraiser Licensing & Certification Board

Appendix A

Table 1. Average Hold Time & Average Length of Call FY16 - FY18

FY	Fiscal Quarter	Avg Hold Time	Avg Length of Call	# RCS Staff	NOTES
FY16	Sep - Oct - Nov 15	8:30	7:15	15	First Reports of Avg Hold Time & Avg Call Length Developed
	Dec - Jan - Feb 16	12:30	13:30	15	First Reports of Survey Topics and Response Results Developed
	Mar -Apr - May 16	12:00	13:15	15	RCS assumed General Email responses; Authorized Overtime
	Jun - Jul - Aug 16	9:00	7:00	15	Avg Hold Time Targets Achieved
FY17	Sep - Oct - Nov 16	11:00	11:30	15	Half of RCS staff get laptops; Licensing Database Upgrade flaws resolved
	Dec - Jan - Feb 17	9:30	19:45	15	Monthly Spike in Hold Time Nov-Dec-Jan; Baseline achieved by Feb
	Mar -Apr - May 17	8:30	22:15	15	Longer Avg Call lengths but shorter Avg Hold Times achieved until Jun
	Jun - Jul - Aug 17	15:00	14:00	15	Adopted new VOIP phone system; Requested IVR assistance from DIR
FY18	Sep - Oct - Nov 17	15:00	5:15	16	Harvey extensions implemented; Added one additional RCS staff; RFO sent out for Call Center Software
	Dec - Jan - Feb 18	18:15	6:00	16	Created new email for document submissions to ELS; Filled 3 x RCS openings; Created new application processing times page on website; Authorized overtime for staff
	Mar -Apr - May 18	16:45	6:00	20	Tiger Team to advise on short-medium-long term solutions; Added 4 additional RCS staff; Added an new call back line
	Jun - Jul - Aug 18	12:05	6:00	20	First Report of Abandoned Call Rates Developed; All RCS gets laptops

Table 2. Three Months in Review

Month	Avg Hold Time	Avg Call Length	% Abandoned	# Staff	Notes
18-Jul	7:30	5:48	33.5	20	Added Customer Choice Call Tree
18-Aug	9:49	5:36	20.5	20	Added Auto-Call Back Feature
18-Sep	12:00	6:11	16.2	20	Includes Call Backs as "Holding"

Appendix B

Table 1. Growth in New License Applications

FY	New License Applications	Increase YR/YR
2011	18,508	—
2012	23,133	4,625
2013	24,127	994
2014	24,534	407
2015	26,106	1,572
2016	28,636	2,530
2017	31,996	3,360
2018	27,278	(4,718)

Table 2. Growth in License Holders (30% increase in 6 years)

FY	Total License Holder Count	Net Increase	New Sales Agents Only
2012	144,413	—	—
2013	148,372	3,959	2,888
2014	156,734	8,362	8,326
2015	165,654	8,920	9,026
2016	175,413	9,759	9,430
2017	183,215	7,802	7,634
2018	189,843	6,628	6,587

Table 3. Annual Call Center Volume Statistics

FY	# Calls Handled	# Emails	# Staff
2013	143,639	63,424	14
2014	143,155	66,013	15
2015	148,740	76,718	15
2016	158,217	83,788	15
2017	134,709	130,648	16
2018	105,255	100,429	20

Table 4. Staff Pay & Benefits

FY	Expenditures Pay + Benefits	Net Increase \$	Net Increase %	Notes
2012	\$6,570,556	—	—	
2013	\$6,850,308	\$279,752	4.26%	
2014	\$7,264,810	\$414,502	6.05%	
2015	\$7,401,012	\$136,202	1.87%	less 2 net
2016	\$7,984,460	\$583,448	7.88%	
2017	\$8,414,199	\$429,739	5.38%	plus 3 net
2018	\$9,044,471	\$630,273	7.49%	plus 6 net

Table 5. Annual Commission Complaint / Case Volume

FY	# OPENED	# CLOSED	% Increase OPENED	% Increase CLOSED	# Staff
2013	2,086	2,124	—	—	28
2014	2,262	2,327	8.4	9.6	27
2015	2,403	2,315	6.2	(0.5)	26
2016	2,826	2,466	17.6	6.5	25
2017	4,561	4,071	61.4	65.1	26.6
2018	5,481	5,904	20.2	45.0	27

Table 6. Technology Resources

FY	Equipment/Software Expenditures	# Staff
2012	\$189,671	12
2013	\$211,200	12
2014	\$373,481	13
2015	\$400,645	14
2016	\$340,354	15
2017	\$366,456	14
2018	\$342,938	14
2019*	\$517,413	14

*Agency committed additional \$1.3MM to accelerate 27 technology projects

Table 7. Major Technology Project Completions (Nov 2016 to Present)

Date Completed	Description	Notes
Nov 2016	Upgrade to VERSA database version 2.6	Add new features to database tool
	Master file conversion to digital storage	<i>Over 5+ years scanned over 5 Million license related documents</i>
Dec 2016	Examination Expiration Upgrade	Each exam remains valid for one year
	DPS Criminal History Rapback programming update	<i>Will eliminate fee at renewals FY20</i>
	TALCB Fingerprint Required Implementation	To meet Federal MCD Requirements
Feb 2017	Education Rosters Online filing Phase 2 Update	Add more ways for providers to upload class completion data
	New TREC Website launched	Award winning responsive format with enhanced search tools
Jun 2017	Versa Data to MIP Accounting Interface added	Transfer finance data vs manual entry
	PCR075 Upgrade Relationship Mgt Tool	<i>45,000 annual paper transactions automated</i>
	PCR076 Upgrade Panel Mgt Tool	<i>15,000 annual panelist add/renew/drop transactions automated</i>
	Programmed API to operate GovDelivery tools	New integrated communications tool
	VOIP Phone System Implementation for Call Center	Clarity and remote work integration
Aug 2017 through Mar 2018	Hurricane Harvey License Renewal Extensions	<i>Statewide for 60 days & in 60 Disaster Counties up to 180 days total extensions provided</i>
Dec 2017	Website Server Upgrades	Enhance stability & performance
	Internal Reporting Services Portal Programmed	Staff efficiency measure
Jan 2018	VOIP Phone System Implementation Across Agency	Clarity and remote work integration
Feb 2018	Implementation of JIRA for IT Project Tracking	Technology ticket & project tracking
May 2018	PCR072 Implement New Name Management Tool	<i>In first 4 months, almost 7,000 names managed online by brokers</i>
	Federal AQB License Requirement Implementation	Moved meeting to implement May 1
Aug 2018	PC Laptop Refresh and Expansion Project	Support remote work integration
	Federal ASC Registry Interface Automation	Automates former manual data entry
Sep 2018	PCR092 License Holder ID Smart Onboarding	Avoids creating duplicate entities
	New Notice Letters System Initial Phase (40% included at this time)	<i>New letter delivery system allows customized notices to license holders at 20,000 per month of 50,000 avg</i>

Table 8. Fee Reductions

Year	Description of Fee Reductions	Est. Savings to License Holders (per biennium)	Notes
2015	Eliminated \$4 newsletter fees for all license holders	\$600,000	For 150,000 license holders
	Apprentice inspector initial application fee reduced from \$84 to \$60	\$2,200	Avg # new Apprentices = 45 per yr (4 yrs = FY15-18)
	Inspector license renewal fees reduced: Prof Inspector \$64 to \$60; RE Inspector \$64 to \$50; and Apprentice Inspector \$54 to \$30	\$17,800	# Prof Insp = 3,026 # RE Insp = 143 # Apprentices = 154
	Inspectors' required initial contribution to Recovery Fund reduced from \$100 to \$10	\$87,800	Avg # new Inspectors = 488 per yr (4 yrs = FY15-18)
	Sales Agent & Broker license renewal fees reduced from \$78 to \$72	\$900,000	For 150,000 renewals/cycle
	Appraiser license renewals reduced: C Gen \$370 to \$360; C Res \$320 to \$310; L Res \$295 to \$290; and Trainee \$270 to \$250	\$53,600	# C Gen Appr = 2,120 # C Res Appr = 2,222 # L Res Appr = 378 # Trainee Appr = 372
2017	Sales Agent License renewals reduced from \$72 to \$66	\$720,000	For 120,000 renewals/cycle
	AMC renewal reduced by \$300 and add/drop panelist fee reduced from \$10 to \$5	\$201,600	172 AMCs & 30,000 panelists
2019	Recommended elimination of \$50 license fees for all 700 RE Branch offices	\$70,000	<i>Will require legislative amendment to Chapter 1101</i>
	Proposed reduction in Sponsorship fees for brokers/sales agents from \$20 to \$10 (avg 45,000 per year)	\$900,000	<i>Proposed at the Commission's August 2018 meeting for possible adoption in November</i>