

TEXAS REAL ESTATE RESEARCH CENTER

**Staff Report
to the
Sunset Advisory Commission**

Legislative Budget Office
Program Evaluation
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FOREWORD

The Texas Sunset Act (Article 5429k V.A.C.S.) terminates named agencies on specific dates unless continued. The Act also requires an evaluation of the operations of each agency be conducted prior to the year in which it terminates to assist the Sunset Commission in developing recommendations to the legislature on the need for continuing the agency or its functions.

To satisfy the evaluation report requirements of Section 1.07, Subsection (3) of the Texas Sunset Act, the Program Evaluation section of the Legislative Budget Board has evaluated the operations of the Texas Real Estate Research Center, which will terminate on September 1, 1981 unless continued by law.

Based on the criteria set out in the Sunset Act, the evaluation report assesses the need to continue the agency or its function and provides alternative approaches to the current method of state regulation. The material contained in the report is divided into seven sections: Summary and Conclusions, Background, Review of Operations, Alternatives and Constraints, Compliance, Public Participation, and Statutory Changes. The Summary and Conclusions section summarizes the material developed in the report from the standpoint of whether or not Sunset criteria are being met, assesses the need for the agency or the agency's functions relative to the findings under the various criteria and develops alternative approaches for continued state regulatory activities. The Background section provides a brief history of legislative intent and a discussion of the original need for the agency. The Review of Operations section combines, for the purposes of review, the sunset criteria of efficiency, effectiveness, and the manner in which complaints are handled. The Alternatives and Constraints section combines the sunset criteria of overlap and duplication, potential for consolidation, less restrictive means of performing the regulation, and federal impact if the agency were modified or discontinued. The Compliance Section combines the Sunset criteria relating to conflicts of interest, compliance with the Open Meetings Act and the Open Records Act, and the equality of employment opportunities. The Public Participation section covers the sunset criterion which calls for an evaluation of the extent to which the public participates in agency activities. The final section, Statutory Changes, deals with legislation adopted which affected the agency, proposed legislation which was not adopted and statutory changes suggested by the agency in its self-evaluation report.

This report is intended to provide an objective view of agency operations based on the evaluation techniques utilized to date, thus providing a factual base for the final recommendations of the Sunset Commission as to the need to continue, abolish or restructure the agency.

I. SUMMARY AND CONCLUSIONS

The Texas Real Estate Research Center was created in 1971 in response to the need to provide for real estate research and assistance with real estate education. The Center is directed to conduct research in all areas of real estate, publish and disseminate research findings and provide assistance for real estate teaching programs.

Activities of the Center are carried out under the policy guidance of a nine-member advisory committee appointed by the governor without senate confirmation. Membership requirements provide for six representatives of the real estate industry and three public members. The Center's enabling statute places the Center within the organizational structure of Texas A&M University and provides for the System's board of directors to develop the Center's budget and staffing patterns. The Center is primarily supported by portions of license fees collected from real estate licensees. All funds are maintained outside the State Treasury by the fiscal office of Texas A&M University.

The Center generally meets the objective of efficient management. Two concerns were identified in the review of the administration activity. First, the agency's enabling statute does not authorize the payment of travel and per diem for members of the advisory committee. The Center has provided compensation to committee members in the form of a professional service fee of \$250 per meeting attended. This produces an inequitable system of payment because the fee is adequate to cover only expenses for some members while providing an excess amount for others.

The second area of concern relates to the budget process of the Center, with two particular concerns identified. First, the advisory committee has the responsibility to review and approve the Center's budget including the authority to

reduce proposed expenditures. The committee does not have the parallel authority to reduce the Center's income from real estate license fees to equal the amount of expenditures budgeted. This limits the ability of the advisory committee to balance the Center's revenues and expenditures. The second concern with the budget process relates to the fact that the Center is not subject to the appropriations process. With automatic funding provided, there is no requirement for funding to be linked to planned performance as required of other components of the Texas A&M University System.

With regard to research, the Center has generally been responsive to the research needs of the real estate industry. Two concerns were identified with regard to the process of evaluating and selecting external research projects for funding. First, the Center has not clearly identified areas where external research would best provide needed outside expertise. Thus proposals cannot be judged on their comparative potential to satisfy research needs. The second concern with the selection of research projects relates to the procedures used to evaluate proposals for research by persons outside of the Center. The Center staff does not consistently use the procedures which have been developed to assure that consistent criteria are used in making decisions regarding funding these external research projects.

With regard to communication activities, the Center has prepared and disseminated research findings to real estate practitioners and the general public. A concern was developed in the review with regard to the process used by the advisory committee to approve publication of research reports. By statute, research reports must have the written approval of the advisory committee prior to publication. The Center will proceed with publication of articles distributed to committee members, even if the staff does not receive a written reply, a

procedure technically in conflict with statutory requirements. Also a negative reply can prevent the publication of a report or result in changes prior to publication that are not considered by the whole committee.

With regard to the Center's education division, the review indicates that the primary need for which this division was developed has been achieved, therefore there is no continuing need for the Center's involvement in the development of education programs. Programs begun in junior and senior colleges can continue without further assistance from the Center. Responsibility for other educational functions can be assumed by trade associations.

Three other concerns were identified in evaluating the Center's compliance with Sunset Commission review criteria. Because of the Center's uncertainty with regard to its statutory responsibilities related to conflict-of-interest, no financial reports have ever been submitted by the director and only inconsistently by advisory committee members, although the director has indicated that he and advisory committee members will comply in the future. With regard to the composition of the advisory committee, it was noted that appointments made by the governor are not followed by senate confirmation, as with appointments to most policy-making bodies. It was also noted that members representing the general public have in the past been connected with the real estate industry, creating the possibility that the public viewpoint is not clearly represented.

Need to Continue the Function

As with other state activities, the functions performed with regard to real estate research should be undertaken by the state only if the needs for the functions cannot be adequately addressed by other means. Conditions which existed prior to 1971 indicated that a state mechanism was needed to assist the development of real estate research. Although the real estate industry was changing rapidly during the 1960's, an inadequate level of research in areas related

to real estate was being conducted. The need for new levels of industry expertise were indicated, but few educational institutions offered real estate programs. The importance of real estate was increasingly recognized, but no actions were being taken to provide funding of real estate research. In response to these needs, the legislature created a real estate center, funded by designated state revenues, to conduct research and assist in the development of educational programs.

Present conditions indicate that the need for real estate research still exists as the real estate industry continues to change. However, as the real estate industry has become better able to support research and as the research capability in universities has developed, the need for a special funding mechanism for real estate research is questionable. In addition, the system of real estate education, which the research center was mandated to assist, has developed to a point at which special assistance is no longer critical.

The continuing need for real estate research can be met through means other than through continuation of a research center which is funded from designated state revenues. The present structure for real estate research has established a very well funded program, far exceeding that of any other state, covering a wide range of functions dealing with real estate. Without designated funding for a research center, some of the functions presently performed by the Center would have to be funded, as in other states, by private sources in order to be continued. Without designated state revenues, funding for real estate research would still be available, but only through competition for funds with other areas of research.

Alternatives

If the legislature determines that the current method of real estate research should be continued, the following alternative could be considered:

1. **CONTINUE THE CENTER AND ITS FUNCTIONS WITH MODIFICATIONS.**

This approach would continue the designated state funding of real estate research through a center at Texas A&M University. The review indicated that the following modifications would result in a more effective manner of providing research:

- a) amend the statute to authorize payment of per diem and travel expenses to advisory committee members (page 14);
- b) amend the statute which dedicates the portion of real estate license fees to Texas A&M University so that the advisory committee would have the authority to reduce the amounts transferred (page 15);
- c) include the Center in the appropriations process as a component of the Texas A&M University System (page 16);
- d) establish specific objectives for research grants and fund projects on their ability to meet these objectives (page 17);
- e) provide consistent documentation to support decisions regarding the funding of research grant projects (page 18);
- f) modify the procedure for advisory committee approval of Center publications (page 19);
- g) modify the educational functions of the Center by deleting the specific educational requirements currently contained in the statute (page 21);
- h) make the advisory committee subject to conflict of interest statutes (page 32);
- i) provide for senate confirmation of advisory committee appointees (page 35); and
- j) clarify that public members of the advisory board are to have no financial interests in the practice of real estate (page 35).

2. PROVIDE REAL ESTATE RESEARCH THROUGH OTHER MEANS THAN A CENTER WITH DEDICATED FUNDING.

- a) Discontinue designated state funding for the center allowing Texas A&M University to continue real estate research contingent on other sources of funding (page 29).

By eliminating the special source of funding presently used, this approach would continue real estate research at Texas A&M University, but require the Center to compete for funding with other university research programs. A transition period during which designated state funding would be reduced could provide the university with sufficient time to identify other funding sources. This approach offers the benefits of eliminating the mandatory tax on real estate practitioners and requiring research to be directly linked to funding. While this approach would reduce real estate license fees, it would also change the Center's role from that of a research center responsible to all real estate licensees to a research program responsible mainly to those organizations providing its funding.

- b) Abolish the Center and continue designated state funding of real estate research through the Coordinating Board (page 28).

This approach has the benefit of eliminating the current method of funding real estate research primarily at one university replacing it with a method for distributing grants to academic institutions throughout the state. This alternative would utilize the Coordinating Board to develop guidelines for administering research grants. Additionally, through interagency contract, the board could use the capabilities of the Texas Agricultural Extension Service to disseminate research information. This alternative could cause research funds to be dispersed so widely as to reduce the amount of research obtained per dollar expended. Research funded in this manner might also have the tendency to be more academically oriented than currently provided.

II. BACKGROUND

Historical Perspective

The Texas Real Estate Research Center was created to upgrade real estate services available in the state. Since 1971, the Center has been involved in a range of research and educational activities such as 1) providing seminars and continuing education courses to real estate practitioners; 2) conducting research; 3) publishing reports and periodicals; and 4) assisting in the development of real estate courses for state junior colleges and universities. A review of events preceding the creation of the Center is helpful in explaining the needs which the Center has sought to address.

Economic conditions in the late 1960's led to increased recognition of the importance of real estate. Housing and land began to be purchased more frequently for investment purposes when the growth of other investments such as the stock market slowed. Real estate investments were also increasingly perceived as a hedge against accelerating inflation. Population shifts to Texas further increased the demand for real estate. The resulting demand for real estate services led the number of real estate practitioners to almost double during this period.

The nature of the real estate industry was also changing during this time. In response to changing housing needs and investment demands, new emphasis was placed on commercial development, recreational land development and multi-family housing such as condominiums and duplexes. Increased knowledge in real estate management and finance were required by all those involved in real estate transactions.

In response to the changing shape of real estate in Texas, members of the industry realized that increasing amounts of information and a new level of expertise within the industry were necessary to provide adequate service. Responding to these needs, the legislature enacted two major proposals during the 1970's. The Sixty-second Legislature, in 1971, created the Texas Real Estate Research Center which provided a new mechanism in the state for real estate research and assistance with real estate education.

The Sixty-fourth Legislature, in 1975, enacted a plan for increasing education requirements for persons initially obtaining a real estate license. Together these legislative acts were meant to provide increased information about real estate, through both higher basic standards and a means to increase the general knowledge within the real estate industry.

To accomplish the research and educational objectives intended for the Texas Real Estate Research Center, its enabling legislation placed it within the College of Agriculture at Texas A&M University. This provided an organizational framework giving the Center access to academic personnel, outreach and other services. As part of the Texas A&M system, the Center could contract with faculty members of all disciplines within the university. Also, the Center could utilize programs and services such as the Texas A&M Agricultural Extension Service for disseminating information.

While the Center's enabling legislation placed final responsibility for its budget and staffing with the board of directors of Texas A&M University, an advisory committee was also created. Composed of real estate licensees and members of the general public, the committee was mandated to review and approve proposals relating to staffing, general policies, and priority ranking of research and educational studies. The advisory committee was required to review

and approve a proposed budget for the Center prior to final action by the A&M board of directors. Additionally, all results, reports, and findings from research were required to be approved by the advisory committee before publishing.

Current operations of the Center are funded primarily from portions of real estate license renewal fees - \$15 of each broker fee and \$7.50 of each salesman fee. Revenues from this source totaled \$1,200,000 in 1979 with an additional \$166,671.27 derived from the sale of publications, fees for courses and seminars, and interest on fund balances. The Center presently employs a staff of thirty-one persons working full-time for the Center, five university faculty working part-time, and sixteen graduate assistants and students. Salaries and wages comprised forty-nine percent of the Center's total expenditures of \$1,119,383.62 during the last fiscal year. Center funds are maintained outside the Treasury by Texas A&M University with \$975,000 in unexpended revenues retained by A&M to the credit of the Center on August 31, 1979.

Comparative Analysis

To determine the pattern of real estate research centers within the United States, a survey of the fifty states was conducted to determine how this has been addressed in other states.

The need for real estate research is currently expressed through research centers in eleven of the fifty states surveyed. From the standpoint of organizational patterns, ten states meet this expressed need through a center associated with a state university. Eight states possess centers which are a part of or attached to a business school within a state university.

In those states with real estate research centers, ten have centers which consist of faculty members, while in two states, Kentucky and Texas, non-faculty

staff share responsibility for a portion of the center's activity. In Texas the research center personnel consists mainly of non-faculty staff. Of those states with research centers, eight states have research priorities established by a policy-making body as in Texas. In six states, as in Texas, these boards consist of both industry representatives and public members.

A majority of the states indicated that their research centers were supported solely by private sources of funding related to the real estate industry. Three states, including Texas, indicated that their research centers were supported at least in part by real estate licensee fees and charges.

Three of the states with real estate research centers contract with other individuals or organizations for some of their research. In five states, centers also perform contract work for other entities. The Texas center both contracts some of its research to others and performs contract work for others. In eight states, research center activities also include publication of research findings but in many cases this is limited to academic journals. The Texas center distributes a periodical based on its research to all licensed real estate brokers.

Texas is the only state that is involved in the development of professorships or chairs of real estate at state universities. In four states, center personnel conduct continuing education for individuals engaged in the practice of real estate. In Texas, continuing education is conducted by the center.

In general, other states which have created real estate research centers perform the basic functions of administration and research while some of these states also provide, at least in some form, the services of communication and education to the real estate industry.

III. REVIEW OF OPERATIONS

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the efficiency with which the agency operates; the objectives of the agency and the manner in which these objectives have been achieved; and the promptness and effectiveness with which the agency disposes of complaints regarding agency operations.

Organization and Objectives

The Real Estate Research Center is mandated to conduct research in all areas of real estate and to publish and disseminate the findings and results. Other responsibilities include providing assistance for real estate teaching programs at colleges and universities, awarding scholarships, establishing real estate chairs, and assisting the Texas Real Estate Commission, on request, with examinations and accreditation standards for real estate courses.

An advisory committee, composed of nine members appointed by the governor without senate confirmation, provides policy guidance to the Center. Six members of the committee are to be real estate brokers, each representing one of the following specialties: brokerage, finance, improvements, residential properties, commercial real estate and industrial properties. The other three members of the committee represent the general public. Statutorily required duties of the advisory committee include review and approval of the Center's budget, staffing and general policies, priority ranking of research and educational studies, and approval of all publications prior to dissemination. As a component of Texas A&M University, the operating budget, and staffing of the Center must also be approved by the board of directors of the Texas A&M University System.

The Center currently has a staff of thirty-one persons working full-time for the Center, five university faculty working part-time, and sixteen graduate assistants and students. Activities performed by the staff in the areas of administration, research, communications and education include conducting research, assisting colleges and universities in developing real estate programs, and disseminating research findings and results.

The Center is primarily supported by portions of license fees collected from licensees of the Real Estate Commission. Presently, the Real Estate Research Center receives \$15.00 of every broker's license fee and \$7.50 of every salesman's license fee. Other revenue sources include income from seminars and the sale of publications. The Center also receives gifts and grants totaling approximately \$1,500 per year for unrestricted use. Exhibit III-1 shows revenues and expenditures of the Center for the past two years and budgeted amounts for fiscal year 1980.

Exhibit III-1

**REVENUES AND EXPENDITURES
Texas Real Estate Research Center**

<u>Revenue</u>	<u>1978</u>	<u>1979</u>	<u>1980*</u>
Carry Over from Previous Year	\$ 860,251	\$ 983,058	\$ 1,212,758
Income from License Fees, Sales, Seminars, Interest, Gifts and Grants	<u>1,070,485</u>	<u>1,300,925</u>	<u>1,300,000</u>
Total Revenue	\$ 1,930,000	\$ 2,259,368	\$ 2,512,758
Expenditures	\$ 906,480	\$ 1,046,612	\$ 1,232,496

*Estimated

All funds are maintained outside the Treasury by the fiscal office of Texas A&M University.

Evaluation of Agency Activities

The operations of the Real Estate Research Center can be broken down into four basic activities: administration, research, communications and education. Below, each of these activities was reviewed to determine the degree to which agency objectives have been met. To make this determination, the evaluation focused on whether the Center has complied with statutory provisions, whether these provisions facilitate accomplishment of the objectives, whether agency organization, rules, and procedures are structured in a manner that contributes to cost-effective accomplishment of the agency's task and whether procedures provide for fair and unbiased decision-making.

Administration

The general objective of any administrative activity is to provide for the efficient operation of all agency functions. The review of these functions indicated that agency administration is generally conducted in an efficient manner. Administrative functions are carried out by a director who is responsible for the Center's overall operation. The director makes the determination of staff requirements for the Center and is involved in determining the allocation of university facility between the Center and teaching assignments with other units within the Texas A&M University System. The administrator also serves as a liaison with the departments within the university which provide support services to the Center such as personnel and fiscal management. While agency management is generally efficient, two concerns with regard to administration were noted in review of this activity.

The first concern relates to the payment for the services of the advisory committee. Presently, the Center's enabling statute does not authorize the

payment of per diem and travel for members of the advisory committee. The Center has provided compensation for committee members in the form of a professional service fee. This fee has increased from \$150 in earlier years to the present amount of \$250 per meeting. The same amount is paid to each committee member for each meeting attended and is based on an estimate of the expenses which would be incurred by that member living the greatest distance from College Station. Because this procedure is adequate to cover only expenses for some members while providing an excess amount for others, this method of reimbursement produces an inequitable system of payment. Statutory authorization for the Center to provide payment of per diem and travel to advisory committee members would allow equal compensation for the services provided by committee members plus reimbursement for expenses incurred. Authorization of per diem and travel expenses would also be consistent with the approach used for most of the state's other policy-making bodies.

The second area of concern relates to the budget process of the Center. Two particular concerns were noted during the review. First, the advisory committee for the Center has the responsibility to review and approve the Center's budget including the authority to reduce expenditures. The committee does not have the parallel authority to reduce the Center's income to equal its expenditures. The main source of income is in the form of fixed portions of real estate license fees. Because the advisory committee has no authority to reduce the Center's income (which has increased by 35 percent in the past two years), the committee has only the choices of spending these funds or allowing them to accumulate. The advisory committee should be given the authority to determine the amount of revenue to be provided by license fees. Such authority would provide a mechanism by which income could be balanced with expenditures. This system is presently employed by

several other agencies, including the Texas Real Estate Commission, through a statutory provision which allows license fees to be set at the level necessary, within limits, to provide for budgeted expenditures.

The second particular concern with the budget process relates to the fact that the Center is not subject to the appropriations process. Because the Center is not in the appropriations process, there is no direct link between funding and planned performance. The Center's funding mechanism is automatic, requiring transfer of real estate license fees without justification by the Center based on need. Other components within the Texas A&M University System go through the budget process for appropriations and thus are required to link funding with expected performance and needs. To provide for similar legislative consideration with regard to its budget, the Center should be included in the appropriations process. By placing it within the Texas A&M System budget, oversight by Texas A&M would continue while increasing Center accountability. This approach is consistent with the Sunset Commission's recommendation that all agencies be included in the appropriations process on an across-the-board basis.

Research

The objective of the research activity is to conduct and contract for research in all areas related to real estate.

To accomplish this objective, the Center performs on-going data collection for several continuous research projects and conducts twenty to thirty short-term research projects per year on timely subjects. Staff of the research division also spends considerable time providing information about real estate by answering questions in response to specific telephone inquiries. In addition, the Center occasionally funds external research projects when outside expertise is needed or a research proposal is judged able to provide information useful to the Center. The

research staff has developed procedures for evaluation of external research proposals and for monitoring projects that have been funded. In general, the Center has been responsive to the research needs of the real estate industry. However, review of the research activity identified two concerns with regard to the process of evaluating and selecting external research projects for funding by the Center.

First, the Center has not clearly identified those areas for which external research projects would be most beneficial in complementing its staff's research expertise. Presently the Center receives proposals from real estate faculty and practitioners in Texas and outside the state requesting funding for research projects on a wide variety of topics. Because the proposals received are unsolicited, the projects generally have few common features, making comparison with each other difficult. Also, since the Center has not developed specific objectives for outside research, evaluation of these proposals cannot be based on their ability to meet these objectives. Without such criteria, the Center must determine the merits of proposals more subjectively than if specific research objectives were available. Moreover, persons capable of performing competent research may not be submitting proposals for the Center's consideration because the Center has not actively communicated its research needs.

In contrast, the usual manner of administering research funds is to identify research needs followed by the development of criteria for judging a proposal's ability to satisfy these needs. A request for proposals can then be prepared and circulated as widely as possible to solicit as many prospective research designs as possible. The proposals received can then be judged on their comparative merits with respect to satisfying research objectives.

The staff has recently begun to develop a list of research needs. If these

needs are then used to establish specific project objectives, the Center will then have standards for evaluating projects based on their potential to satisfy research needs.

The second concern with the research proposal selection process relates to the internal procedures used to evaluate proposals. The Center has recognized the need for a standardized method of selection and has developed an internal review procedure. This procedure provides for consideration of various aspects of the proposal including the project's scope, its likelihood of completion, whether there is a need for the study, the adequacy of funding, and the qualifications of the researcher. However, examination of project files indicated that the review procedure has not been followed in a consistent manner. Without a consistently documented basis for decisions, the Center loses its ability to justify funding one project while rejecting another. Without full documentation, the potential also exists for inconsistent application of review criteria. The evaluation procedure was designed to alleviate these potential problems. Consistent documentation should be maintained which supports decisions made through the use of this procedure. Such documentation would satisfy the concern expressed by the Sunset Commission with regard to an agency's responsibility to provide adequate documentation to support decision processes.

Communications

The objective of the communication division is to prepare and disseminate information about the Center and its research findings to real estate practitioners and the general public.

To accomplish this objective, the communications division assembles research materials; edits and rewrites copies as necessary; prepares photographs and layout designs; and arranges printing and mailing of quarterly periodicals and other

research publications. In addition, the communication staff prepares slide shows, radio and television announcements and new releases which are disseminated with assistance from the Texas A&M University's Office of Public Information. One of the main duties of this division is to convert technical research information into a form suitable for real estate practitioners and the general public rather than the academic community. Furthermore, secondary use of research information disseminated by the communications division is specifically encouraged by the Center. Review of the communication function identified one area of concern related to the approval process for publication of research reports.

By statute, the results of research are not to be published unless the advisory committee has given approval in writing. The Center has developed a procedure for receiving approval for publication which utilizes reply cards from advisory committee members. All materials for publication are sent to each committee member for review. For research reports, each advisory committee member is also sent a reply card and for periodical articles, two advisory committee members are sent reply cards. Unless negative replies are received by the Center, the research material is published. If a reply is received from a member objecting to an article, publication is delayed until the objection has been addressed.

Two problems exist with the procedure which is presently established to provide approval of the Center's publications. First, the Center's procedure of proceeding with publication unless a negative reply is received prevents delays. However, in instances where no reply card is received by the Center, this procedure is technically not in compliance with the statutory requirement requiring written approval. Thus, final responsibility for publication, which is intended to be placed with the advisory committee, is transferred to the Center's staff. Second, although the advisory committee members should be allowed to delay publication

of an article, in some instances reports have not been published because of the objection of a member. Reports have also been changed without the knowledge of other advisory committee members in order to satisfy the objections of a committee member.

These problems could be addressed by changes in procedure to require that the written approval of at least one advisory committee member be obtained prior to publication of all research materials and by placing a report on the agenda of the advisory committee's next meeting for full committee discussion if changes to a report are suggested or a request is made not to publish a report after a draft has been distributed. These procedures would satisfy statutory requirements and relieve the staff of responsibility for publishing material not approved by the advisory committee.

Education

The objective of the education division of the Real Estate Research Center is to assist in the development of teaching programs in order to establish a system of real estate education in the state.

To accomplish this objective, the Center has encouraged senior and junior colleges to develop new programs in real estate, established real estate professorships at two universities, and provided partial financial support for other real estate professors. The Center has also provided financial support for individuals studying real estate through scholarships to students at qualified colleges and universities throughout the state. Other educational efforts include the establishment of an advanced continuing education program for real estate practitioners, Studies of Advanced Real Estate Subjects (SOARS), and the development and sponsorship of seminars and conferences designed to keep practitioners in the industry abreast of new concepts and changes in real estate.

A review of the Center's education division indicates that the primary need for which this division was developed has been achieved, and therefore there is no continuing need for the Center's involvement in the development of education programs. The education division was created to assist in the development of teaching programs across the state in order to meet the need for a well developed system of real estate education. The evaluation of this activity focused on the current status of real estate education in the state, the Center's role in the development of education programs, and the ability for continuation of education programs without assistance by the Center.

Real estate education in the state has expanded greatly since creation of the Center. In 1972, only four community colleges offered a two-year associate degree program in real estate; today forty-five junior colleges offer this degree. Over 39,000 students take one or more subjects in the field of real estate in community colleges around the state. Forty-three senior colleges and universities offer real estate courses to over 11,800 students. Scholarships have assisted in encouraging the study of real estate as a career opportunity. The SOARS program has established an additional training program for individuals practicing real estate who want advanced educational training. Also, a professional association has been established for real estate teachers (TRETA).

While there will always be more educational assistance which can be provided, the review indicates that real estate education in Texas is well developed at both the junior and senior college level. Although all credit for this development is not due to the activities of the Center, its education staff has been actively involved in the development of each of the real estate education activities mentioned above.

The ability of education programs to continue without the Center's support

was also evaluated. Programs begun in junior and senior colleges can continue without assistance from the Center. Scholarships can be provided by other sources including trade organizations. Sponsoring continuing education such as SOARS are functions which trade organizations presently perform independent of the Center's activities in Texas and in other states. The real estate teachers' association is actively engaged in improving the quality of real estate education in the state, and would be able to continue without the Center's support. Thus, the present educational role of the Center can be modified by removing its statutory requirements in this area without serious consequences to the continuation of a strong program of real estate education in the state.

Summary

The Real Estate Research Center is directed by statute to conduct research in all areas of real estate, publish and disseminate the findings and results, and provide assistance for real estate teaching programs at colleges and universities.

A nine-member advisory committee, appointed by the governor without senate confirmation, provides policy guidance to the Center on budgetary matters and research priorities. Six committee members are representatives of the real estate industry, while three members represent the general public. The Center's enabling statute places the Center within the Texas A&M University System and provides for the System's board of directors to develop the Center's budget and staffing patterns. The Center is primarily supported by portions of licensee fees collected from licensees of the Real Estate Commission. All funds are maintained outside the treasury by the fiscal office of Texas A&M University.

With regard to agency administration, the Center generally meets the objective of efficient management. However, two concerns were identified in the review. The first concern relates to the payment for the services of the advisory

committee. The Center's enabling statute does not authorize the payment of travel and per diem for members of the advisory committee. The Center has provided compensation to committee members in the form of a professional service fee amounting to \$250 per meeting. Statutory authorization for the Center to pay travel and per diem to committee members would allow equal compensation for services provided plus reimbursement for expenses incurred.

The second area of concern relates to the budget process of the Center, with two particular concerns noted during the review. First, the advisory committee has the responsibility to review and approve the Center's budget including the authority to reduce expenditures. The committee does not have parallel authority to reduce the Center's income from real estate licensee fees. This authority would allow the advisory committee to provide only the revenue necessary to operate within the approved budget. The second particular concern with the budget process relates to the fact that the Center is not subject to the appropriations process and thus there is no direct link between funding and planned performance. To provide legislative consideration similar to that provided for other components of the Texas A&M University System, the Center should be included in the appropriations process as a component of the Texas A&M University System.

With regard to research, the Center has generally been responsive to the research needs of the real estate industry. However, two concerns were identified with regard to the process of evaluating and selecting external research projects for funding. First, the Center has not clearly identified areas where external research projects would be most beneficial in complementing the staff's research expertise. This has meant that the Center has had to evaluate research proposals more subjectively than if they could compare proposals to specific research objectives. Establishing specific project objectives would provide a basis for

evaluating research proposals based on their potential to satisfy research needs. The second area of concern relates to the internal procedures used to evaluate proposals. The Center staff does not consistently use procedures which have been developed for making decisions regarding the funding of external research projects. Consistent use of these procedures would help assure consistent application of review criteria.

A review of the communication division of the Center indicates that research findings and information about the Center are prepared and disseminated for real estate practitioners and the general public. One concern was noted in the review relating to the approval process for publication of research reports. By statute, research reports must have the written approval of the advisory committee prior to publication. Two problems were identified with the procedure established for approval of publications. First, the Center will proceed with publication of articles distributed to committee members, even if the staff does not receive a written reply, a procedure technically in conflict with statutory requirements. Second, a negative reply can prevent the publication of a report or result in changes prior to publication that are not considered by the whole committee. These problems could be addressed by requiring written approval of at least one advisory committee member prior to publishing any materials and by providing for full committee consideration of any reports that have received negative comments by a committee member.

A review of the Center's education division indicates that the primary need for which this division was developed has been achieved, and therefore there is no continuing need for the Center's involvement in the development of education programs. The ability of education programs to continue without the Center's support was also evaluated. Programs begun in junior and senior colleges can

continue without assistance, while other functions presently performed by the Center, could be assumed by trade associations. Thus, the present educational role of the Center could be modified by removing its statutory mandates in this area without disabling the strong program of real estate education which presently exists in Texas.

IV. ALTERNATIVES AND CONSTRAINTS

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the extent of overlap and duplication with other agencies and the potential for consolidation with other agencies; an assessment of alternative methods of performing the function; and the impact in terms of federal intervention or the loss of federal funds if the agency is abolished.

Organizational Alternatives

Organizational structures used to provide real estate research in other states were reviewed in order to identify alternatives with potential for use in Texas. The review indicated that there are ten other states which provide for research through a research center. Of these states, four also provide for dissemination of research findings and some form of educational assistance in addition to conducting research. Research centers in the other six states are involved in research and dissemination activities only. Sixteen states have chosen to provide for real estate research through the establishment of research chairs within a state university. This approach places primary emphasis on research. Educational assistance in some instances is also provided by the efforts of the faculty member supported by the chair. Thirty states have chosen to allow real estate research to be conducted within the usual research structure of universities. In many of these states, administrative support is provided by a faculty group drawn from related disciplines which concentrates effort toward research in real estate. These groups are frequently referred to as research institutes.

Of the alternatives identified in other states, all could be used to provide real estate research in Texas. To determine the feasibility of these options, the level

of service which each alternative would be able to provide was determined. Services provided in Texas through the structure of a research center include conducting and disseminating research with wide applicability as well as assisting in the development of educational programs. The permanent and centralized nature of this arrangement allows for coordination of the various functions performed as well as for long range planning.

By comparison, the other two options offer reduced levels of service. Real estate research chairs provide for only the limited output which can be produced by individual professors without a formal mechanism for dissemination. In addition, the emphasis of such research frequently has a more academic orientation than materials produced specifically for real estate practitioners. Educational assistance provided by this option is limited to the efforts of each chaired professor to develop the real estate program within the university where the chair is located. The option of organized university research or research institutes generally provides only research services. Although research institutes can perform education functions if funding is available, their strength lies in being able to perform interdisciplinary research. As with research chairs, research institutes lack the means to provide dissemination of research data, and their reports are frequently produced for other academic purposes.

Analysis of these organizational alternatives available for Texas indicates that, if the current level of services is maintained, then a real estate research center can most effectively perform the functions necessary to deliver these services. Should the desired services be less than those presently provided by the research center, then alternative university structures become feasible as means of continuing real estate research activity.

Funding Alternatives

In addition to the various organizational structures which are used to provide real estate research, alternative methods of funding are available. From the review of other states, it was found that seven states provide various forms of designated funding for research through a center. Of these seven states, three provide partial support through direct appropriations for research. One state funds research from income derived through investment of real estate recovery funds. The third form of designated funding, used by the remaining three states, is to allocate portions of real estate license fees to fund research. This is done through fixed portions transferred annually or through annual grants from a state's real estate commission. The forty-three other states do not designate separate state funds for support of real estate research leaving any research conducted contingent on funding from other sources. These other sources can include federal agencies, trade associations and private corporations.

If designated funding for real estate research is continued in Texas, an alternative exists to providing funds exclusively to one research center. This alternative would distribute designated funds to colleges and universities throughout the state. The Texas College and University Coordinating Board is available to provide a distribution mechanism for disbursing funds to educational institutions. The Coordinating Board could establish guidelines by which research funds would be allocated to qualified colleges and universities. Each college or university would then decide which individual real estate projects to fund. The Coordinating Board could also, through interagency contract, utilize the Texas A&M Extension Service to aid in disseminating the research findings from these projects. The availability of research funds could stimulate real estate research activity across the state. This alternative, however, could also cause research funds to be dispersed so widely

as to reduce the amount of research obtained per dollar expended. Research funded in this manner might also have the tendency to be more academically oriented than the research now provided by the Center.

The other funding alternative, predominate among other states, is to provide no special funding of real estate research. In these states, real estate research is conducted in the organized research setting of colleges and universities in the same fashion as other research. This alternative could also be used to provide real estate research in Texas. The process of providing special funding to establish a particular research program is common in educational institutions. Once the program is well established through special funding, it may then be required to merge into a university's normal organized research structure. The Bureau of Business Research at the University of Texas at Austin is one example of a specially funded program which has recently been merged into a university's organized research structure. A similar merger could be accomplished with regard to real estate research by allowing Texas A&M a transition period to begin to provide for funding of the Center from other sources. While this approach would reduce real estate license fees, it would also shift the Center's responsibility. Instead of serving as a statewide research center, it would become a research program of one university responsible mainly to those organizations providing its funding.

Summary

Organizational structures used to provide real estate research in other states were reviewed in order to determine alternatives with potential for use in Texas. Currently, there are ten other states which provide real estate research through a research center. Four of these states provide dissemination of research findings along with providing some form of educational assistance, while the other six are

involved in research and dissemination only. Sixteen states provide real estate research through the establishment of research chairs at a state university. The remaining states allow real estate research to be conducted within the usual research structure of state universities. Analysis of these organizational alternatives indicates that if the current level of service is to be maintained in Texas, then a real estate research center is most effective. Should the desired level of service be lower than that currently provided, then alternative university structures become feasible.

If designated funding for real estate research is continued in Texas, an alternative exists which would be to abolish the Center and continue designated state funding of real estate research through the Coordinating Board. The Coordinating Board could develop guidelines for administering research grants to academic institutions throughout the state, instead of funding research largely at one university. Additionally, through interagency contract, the Coordinating Board could use the capabilities of the Texas Agricultural Extension Service to disseminate research information.

The funding alternative predominate in other states is to provide no special funding for real estate research. Eliminating the Center's special source of funds would require real estate research to compete for funding with other university research programs. A transition period of reduced levels of designated state funding could provide Texas A&M University with sufficient time to identify other funding sources. The Bureau of Business Research at the University of Texas provides an example of a specially funded program which has recently been merged with a university's organized research structure. This approach would reduce state license fees, but it would also shift the Center's responsibility from being a statewide research center to one that is responsible mainly to those organizations providing its funding.

V. COMPLIANCE

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are the extent to which the agency issues and enforces rules relating to potential conflict of interest of its employees; the extent to which the agency complies with the Open Records Act and the Open Meetings Act; and the extent to which the agency has complied with necessary requirements concerning equality of employment opportunities and the rights and privacy of individuals.

In its efforts to provide information and educational assistance, an agency's operations should be structured in a manner that is fair and impartial to all interests. The degree to which this objective is met can be partially judged on the basis of potential conflicts of interest in agency organization and operation, as well as agency compliance with statutes relating to conflicts of interest, open meetings, and open records.

Conflict of Interest

As a component of Texas A&M University, the responsibility of the Center regarding statutory standards of conduct, conflict of interest, and financial reporting provisions (Article 6252-9b, V.A.C.S.), has not been clearly understood. Although the agency does provide copies of Article 6252-9b to new employees the Office of the Secretary of State, until recently, has not sent copies of financial reporting forms to advisory committee members or the Center's director. Because of the Center's uncertainty with regard to its statutory responsibilities, no financial reports have ever been submitted by the director and only inconsistently by advisory committee members. However, the Center's director has stated that

he and advisory committee members will comply with financial reporting requirements.

Review of agency files and meeting minutes indicates no situations in which problems with conflicts of interest have occurred. Nevertheless, the potential for conflict of interest exists since industry-related advisory committee members are, by statute, involved in determining priorities for research projects and in approving all publications prior to dissemination. On an across-the-board basis, the Sunset Commission has recommended that all agencies reviewed be made subject to statutory conflict-of-interest provisions. A statutory provision specifying that the Center is subject to Article 6252-9b, would be consistent with this approach and would clarify the agency's responsibilities in this regard.

Open Meetings - Open Records

Meetings and activities of the Real Estate Research Center have been conducted in compliance with the requirements of the Texas Open Meetings Act and the Texas Open Records Act. As evidenced by the Center's minutes and publications in the Texas Register, advisory committee meetings have been preceded by adequate and timely notice to the public. With respect to the Open Records Act, the Center operates under guidelines developed by the Texas A&M University System. The only information held confidential are employee records. Salaries are public record as part of the Texas A&M University System budget and all research materials are considered open records.

Employment Policies

As part of the Texas A&M University System, the Center operates under an Affirmative Action Plan updated by the University in 1978. In accordance with

this plan, the Center prepares an annual workforce analysis. Review of the Center's 1980 analysis indicates that thirteen of its thirty-one full-time positions are held by females, eleven of whom are employed in secretarial/clerical positions while one is an assistant editor and one is a senior systems analyst. The Center has no minority employees. The agency's five-year goals developed in 1979 for staff additions are to hire one white female professional employee and one black female technical/paraprofessional.

The Center also operates under a grievance procedure updated by the University in 1978 for all non-faculty employees. University records indicate that no formal complaints related to employment procedures have been filed against the Center.

Summary

Because of uncertainty regarding the responsibility of the Center with respect to conflict-of-interest provisions, the Center's director and most advisory committee members have not filed financial reports related to conflict-of-interest provisions. The Center has indicated that it will comply with reporting requirements. Adding a provision to the Center's statute that advisory committee members are subject to conflict-of-interest provisions would be consistent with the accountability required of other policy making bodies and with Sunset Commission recommendations regarding conflict of interest.

The agency has complied with statutory requirements regarding open meetings and open records. As part of the Texas A&M University System, the Center operates under an affirmative action plan updated by the university in 1978. No formal employee-related complaints have been filed against the Center.

VI. PUBLIC PARTICIPATION

The review under this section covers the sunset criterion which calls for an evaluation of the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The extent to which the agency has involved the public in agency decisions can be judged on the basis of agency procedures regarding public participation, the nature of policies adopted, the availability of information concerning agency operations, and the existence of public members on the advisory committee.

Agency Activities

Because the Texas Real Estate Research Center does not have rule-making authority, its efforts to involve the public in its activities are reflected primarily through the priority given to research directed toward the general public and by the methods used by the Center to make the public aware of this research. Review of research priorities indicated that, while primary emphasis is placed on publications directed toward the real estate industry, several publications have been produced for the general public. Examples of such publications include a home-buyers guide (50¢), information on buying versus renting (50¢), and information on selling one's own house (free). Pamphlets on the Center's operation, its enabling statute, and its publications are made available to the public free of charge upon request. In addition, agency policies encourage distribution of research materials by providing many of its publications at no cost including the Center's quarterly magazine which reports on research findings. Other efforts by the Center to

provide information to the public include news releases and occasional television and radio announcements.

Board Membership

One method of attempting to ensure that the viewpoint of the general public is represented in the activities of an agency is to require that members of the general public be included on the policy-making body. This has been addressed through a provision in the agency's enabling legislation which requires that three of the nine appointed members of the Center's advisory committee be representatives of the general public. Thus, the legislative intent behind the composition of the advisory committee is consistent with Sunset Commission recommendations regarding public members on agency boards. However, two concerns related to committee membership were noted during the review.

First, it was noted that members appointed as representatives of the general public have, in all but one instance, been connected in some way with the real estate industry. Public members without financial interest in real estate or related fields could more clearly represent the public's viewpoint in committee activities. Modification of the Center's statute to be consistent with the Sunset Commission's recommended language regarding financial interests of public members would more precisely define those persons best qualified to serve as public members.

Secondly, the Center's enabling legislation does not provide that appointed members be confirmed by the senate as is the case with most appointed state boards and commissions. Senate confirmation of newly appointed members would provide the legislature with authority presently exercised with regard to other state agencies, and provide a mechanism to ensure that appointees are qualified to serve on the advisory board.

Summary

The Center involves the public in its operations primarily through providing research directed toward the general public. The Center also distributes pamphlets describing its operations, enabling statute, and available publications. These pamphlets, as well as most other publications, are provided free of charge upon request. Regarding advisory committee members, the public's viewpoint could be more clearly represented if public members on the committee were restricted to persons without financial interest in the practice of real estate. Also, confirmation by the senate of appointments to the advisory committee would provide a mechanism for ensuring that appointees are qualified to serve on the advisory committee.

VII. STATUTORY CHANGES

The material presented in this section combines several sunset criteria for the purpose of evaluating the activities of the agency. The specific criteria covered are whether statutory changes recommended by the agency or others were calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates; and statutory changes recommended by the agency for the improvement of the regulatory function performed.

Past Legislative Action

The Real Estate Research Center was created in 1971 to conduct research in real estate and related fields, and to assist teaching programs in real estate offered by the state's colleges and universities. The law provided funding for the Center through increases in real estate license fees and the designation of a portion of these fees for support of the Center. The maximum fee for a real estate broker license was set at \$20 with \$10 designated for the Center. The real estate salesman fee was set at a maximum of \$10 with \$5 set aside for the Center.

The only legislative change since 1971 affecting the Center's operations, was passage of Senate Bill No. 344 by the Sixty-fourth Legislature in 1975. This bill increased real estate license fees and the portions designated for the Center's support. The real estate broker fee maximum was set at \$40 with \$15 for the Center. The real estate salesman license fee maximum was raised to \$20 with \$7.50 for the Center.

Proposed Legislative Action

Apart from the successful legislation mentioned above, no other attempts to amend the Center's enabling statute or change statutes affecting the Center's operations were made during the past four legislative sessions. No changes to the agency's

enabling legislation were recommended by the Center in its self-evaluation report to the Sunset Advisory Commission.

Summary

One legislative change has affected the Center's operations since its creation in 1971. In 1975, Senate Bill No. 344 raised the maximum fees for real estate broker and salesman licenses, increasing the amount of each designated for support of the Center. No other attempts to pass legislation affecting the Center's operations have been made and the Center did not recommend any changes in its self-evaluation report.