

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Second Floor-Room 205

8:30 a.m.

January 21, 2004

MINUTES

STAFF MEMBERS PRESENT

Dexter Bell, Division Director

Mark Fagergren, Licensing/Education Director

Jon Brown, Lead Investigator

Dee Johnson, Investigator

Charles Smalley, Investigator

Blaine Ferguson, Assistant Attorney General

Shelley Wismer, Assistant Attorney General

Renda Christensen, Board Secretary

COMMISSION MEMBERS PRESENT

Danny Holt, Chairman

Gage Froerer, Vice Chair

Thomas Morgan, Commission member

Dorothy Burnham, Commission member

Maralee Jensen, Commission member

The January 21, 2004 meeting of the Utah Real Estate Commission began at 8:35 a.m. with Chair Danny Holt conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

Commissioner Burnham corrected the spelling of Moira Roisol's name. With that exception, a motion was made and seconded to approve the December 17, 2003 minutes. The vote was taken and passed unanimously.

DIVISION REPORTS

ENFORCEMENT REPORT – Jon Brown, Chief Investigator

Mr. Brown told the Commission that there were 19 written complaints received in December, 8 new cases accepted, and 4 files closed during the month. The open files are now 194. He brought to Commission's attention the numbers for the months of July with 27 complaints, August with 28

complaints, and September having 34 complaints. Mr. Brown said that with all three industries the Division regulates, numbers have increased in September. Part of the explanation was a large mortgage company that closed, and increasing interest rates.

We have allowed CE hours required in Stipulations to count toward their CE, but the Division believes they should be on top of regular CE requirements.

Commissioner Morgan asked whether an appraiser can do a drive-by appraisal and charge for it. Mr. Brown and Ms. Wismer both answered positively to the question. Mr. Brown said that there are several types of reports and an appraiser needs to disclose what they did and how they support it. Mr. Morgan wanted to know if an appraisal can be based on Board of Realtors "MLS" information. Mr. Brown said they do use this information and that the information is considered an opinion of value for a certain time. Mr. Brown said that any time a person, whether appraiser or real estate agent, relies on unverified information, he might have problems.

Mr. Brown informed the Commission that one of the investigators, Joe Campbell, is retiring.

Commissioner Froerer mentioned that he has had a couple of disturbing phone calls in the past month regarding brokers authorizing title companies to issue checks directly to agents instead of going through the broker. Mr. Brown said that in Statute 61.2.10, subsection 1, this practice is prohibited. Ms. Wismer read the statute to the Commission to emphasize that this practice is not acceptable. Mr. Brown said that these instances need to be brought to the attention of the Division. Mr. Froerer and Director Bell made the comment that this topic should be brought up in the real estate newsletter.

DIRECTOR'S REPORT – Dexter Bell

Director Bell said that after reviewing the Survey Addendum, he is convinced that it should be eliminated because it duplicates provisions in paragraph 8 of the new REPC. Chair Holt agreed with Director Bell and asked Mr. Ferguson what the next step would be to have it eliminated. Mr. Ferguson said that the Commission would have to make a rule change to delete the Survey Addendum from the list of State-approved documents. Ms. Burnham made the motion to enact a rule eliminating the Survey

Addendum, which was seconded by Mr. Morgan. A vote was taken and passed unanimously.

Director Bell discussed Continuing Education. He wants to make sure that a person doesn't get penalized for going inactive, which was the original purpose of the statutory change last year. In the current statute a person does not have to make up CE hours for all the time they have been inactive. The Commission would like a higher requirement of CE hours after long inactive periods. Mr. Fagergren diagrammed a new recommendation for the Commission's consideration. He stated that in this proposal, every two-year license term a licensee would need 24 CE hours. Confusion sets in when a person waits until the day before the end of the time frame and then inactivates, renews in inactive status, and then wants to activate again. Mr. Fagergren suggested that if a person is inactive, they would need to take 12 hours to activate under the Division proposal, and then take the 24 hours necessary for renewal. Ms. Wismer suggested that the drafting problem might be solved if they went back to the language that was deleted last year, but cap the maximum number of "inactivation" CE hours needed. Mr. Froerer suggested that maybe it should be 12 hours per licensing period, not to exceed 36 or 48 hours in coming back from inactive, and agreed with Ms. Wismer on capping the maximum number of hours.

The decision was to require 24 hours to renew for active people per licensing period instead of 12 hours assuming the bill passes this session to double CE hours to 24. If a person has been inactive and wants to activate, he will have to take 12 hours for each year of inactivity up to a maximum of 36 hours.

Ms. Burnham questioned if by this change the Commission determined what courses a reactivating person takes, and Director Bell said that it was a separate issue. Ms. Wismer stated that we could write in this proposed statutory amendment that by rule the Commission could dictate which courses were required.

LICENSING HEARINGS

- 9:50 Lance Mann – Application for License
- 10:55 David Nutting – Application for License
Russ Orchard, Broker, Coldwell Banker
- 11:25 Brett R. Sorensen – Application for Renewal of License

Tami Sorensen, wife

11:55 Jim McKain – Application for License

The Commission briefly discussed the Steven Benjamin stipulation and the list of applicants with lesser criminal convictions.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren handed out the chart showing the statistics for licensees. He said that there has been a 70% increase in all Division licensing over a 3-year period. The Division had an onslaught of mortgage license applications, especially at the end of the year, trying to beat the deadline for testing. The new mortgage exam will have both a positive and negative effect on the real estate industry. There will be two new test centers opening up, one in Ogden and the other in Provo. Initially, the Provo test center will only take mortgage applicants, and will not take real estate applicants. There are 13,000+ mortgage people that have to be tested this year. We have had complaints to the Division about the mortgage exam being too hard, and at the same time, being too easy. Ms. Jensen commented that she took the test in 57 minutes and passed. She felt that it was not an easy test.

Using the funds that were appropriated last year, the Division contracted with Dave Johnson to teach a 3-hour course on the new REPC. It will be going out to all the boards and schools, and it covers the changes made as well as the hot points. There will be an article in the newsletter about the new course. Also, Chair Holt has agreed to write an article for the newsletter.

A motion was made, seconded, and unanimously agreed to go into Executive Session from 12:55 p.m. until 1:10 p.m.

EXECUTIVE SESSION

Results of Executive Session

Lance Mann – Application denied

David Nutting – Application granted

Brett R. Sorensen – License granted but will be suspended until probation

is completed, broker notification

Jim McKain – Application granted

Steven Benjamin Stipulation – Approved

Results of Lesser Criminal Convictions:

Peter B. Coombs -	Approved for license
Candice L. Davis -	Approved for license
Linda English -	Approved for license
Robert Green -	Approved for license
Rebecca K. Petersen -	Approved for license
Lusinita A. Makalio -	Approved for license
Katherine Belinky -	Approved for license
Joann Leemaster -	Approved for license
Brad Johnson -	Approved for license
Dennis A. Hanlon -	Approved for license
Brenda Turley -	Approved for license
Victor Saenz -	Approved for license
Felix Gonzalez -	Approved for license
John Keyes -	Approved for license
Wade Dawson -	Approved for license

OTHER BUSINESS

Mr. Morgan commented that he would like any penalty CE hours to be added on top in stipulations so it does not count as part of the regular CE hours.

Chair Holt stated that he will not be in town for the next Commission meeting scheduled on February 18th. Vice Chair Froerer has agreed to chair the meeting.

A motion was made by Ms. Burnham and seconded by Ms. Jensen to adjourn. The vote was passed unanimously.

There being no further business to discuss, the motion was made, seconded and passed unanimously. The meeting adjourned at 1:15 p.m.