

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
November 17, 2004

MINUTES

STAFF MEMBERS PRESENT:

Dexter Bell, Division Director
Mark Fagergren, Education/Licensing Director
Jon Brown, Enforcement Director
Dee Johnson, Investigator
Marv Everett, Investigator
Charles Smalley, Investigator
Shelley Wismer, Assistant Attorney General
Karen Duncan, IT Staff
Renda Christensen, Board Secretary

COMMISSION MEMBERS PRESENT:

Gage Froerer, Chairman
Dorothy Burnham, Vice Chair
Maralee Jensen, Commission member
Bonnie Peretti, Commission member
H. Blaine Walker, Commission member

GUESTS

Kevin Swensen

The November 17, 2004, meeting of the Utah Real Estate Commission began at 9:05 a.m. with Chair Froerer conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes were reviewed and found that a correction was needed. On page 2, third paragraph, the sentence needs to be clarified to read "...a new procedure they have for tracking CE, which will be more efficient and effective." The minutes were approved with this correction.

Other Business

Karen Duncan and Ms.Christensen gave a brief presentation on the new on-line renewal system that will be starting on Monday, November 22nd. Ms. Duncan went through each page of the renewal and the Commission and Division staff gave their opinions and offered suggestions to improve the process.

DIVISION REPORTS

INVESTIGATIONS REPORT – Jon Brown

Mr. Brown said in the month of October there were 26 written complaints logged, 8 new cases opened for investigation, 19 cases closed during the month, leaving a total of 247 open case files. He also announced to the Commission that on December 1st, the Division will be hiring another investigator.

Mr. Walker suggested the Division hold the informal hearings instead of the Commission hearing them. If the applicant doesn't like the decision of the Division, then they would have the option to appeal it to the Commission. By making this change, it would give the Commission more time to discuss issues such as pending legislation, education, etc.

Ms. Burnham said the statute should be changed to toughen the enrollment standards for entry into the profession. She suggested the fingerprint and background search be done before they apply at the schools.

Chair Froerer agreed with Mr. Walker and Ms. Burnham, and suggested that Mr. Fagergren put the results of the hearings on a list similar to the List of Lesser Criminal Convictions.

Director Bell said there would need to be a statute change so the Division could make the decisions on criminal cases not related to real estate. Applicants could appeal to the Executive Director, Klare Bachman. He recommends that we should do this for new applications, and have the renewals come before the Commission. This would give the Commission more time to discuss other issues. Chair Froerer would like to see a draft of the statute change at the next meeting.

DIRECTOR'S REPORT – Dexter Bell

Director Bell said he had read a report Ms. Burnham brought back from the ARELLO Ethics Education Seminar written by Deborah Long. He said there was a summary of a study done by the Georgia Real Estate Commissioner, Charles Clark. In his report, Mr. Clark said the state receives approximately 2,000 investigations per year, and they find that what is referred to as the 50/40/10 Rule applies. This means that 50% of the investigations result in the findings of no violations; 40% result in minor technical violations; and, 10% of the complaints result in the need for the Commission to take some form of formal disciplinary action. Common complaints were, "He never returned my phone calls," "He never called us Mr. and Mrs.," "He stopped by our house unannounced." Mr. Brown said being rude was a common complaint being received. Director Bell said that perhaps a course was needed on customer service to help with these complaints.

Chair Froerer said these problems could be handled in pre-licensing education, and have the class become part of the basic schooling. Mr. Walker said a continuing education class would be helpful for the 17,000 agents already licensed.

LICENSING HEARINGS

- 10:10 Gary Munson – Application for License Renewal
Michael Mayfield, Attorney
- 11:00 Lance Lowe – Application for License
Mirtha Lowe, Wife
- 11:50 Christopher Blake – Application for License
Tony Ketterling, Broker
- 12:20 William Massie – Application for License
Mrs. Massie, Wife

A motion to go into Executive Session was passed, and was held from 12:45 p.m. to 1:25 p.m. This was a working lunch.

- 1:25 Janna Woods – Application for License
Steve Cook, Attorney
- 2:10 Don Millburn – Post Revocation Hearing
Thomas Howard, Attorney
Will Cooper, Broker
Craig Burton, Broker
Director Bell has recused himself. Mr. Brown will be Acting Director.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren announced the Division had a very successful Instructor Development Workshop. There were approximately 50-55 people for two days, and Mark Barker was the Instructor.

Mr. Fagergren submitted a few names to help with the new Core Course. They are Jack Marinello (real estate instructor) on short sales, limited service, or customer service/relations, Danny Holt (real estate instructor) on following a transaction all the way through, or a national person like Mark Barker again. Ms. Burnham suggested Karen Post, and Mr. Brown suggested Dave Sampson on Agency. The Commission suggested using several instructors to break up the 3 hours.

Review of Lesser Criminal Convictions:

Mark Martinez
Paul Callister
Darla Christiansen
Chandler Cowles
Rachel Fox
Trent Henderson
Joshua Higley
Annette Jennings

Michael Merrill
Denise Underwood
Katie Victor
Pyese Winfield

OTHER BUSINESS

Director Bell brought up the topic of limited service/entry only and handed out a draft of a newsletter article. After some discussion, Chair Froerer said that some issues in the industry need to be worked out before publishing an article.

Director Bell asked Mr. Walker to cover Tenants in Common 1031's, and securities licenses. The issue is where does the investment become a security. The National Association of Realtors is monitoring this closely and wants to keep the real estate agent in the transaction.

A motion to go into a second Executive Session was made and held from 3:40 p.m. to 4:05 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearings:

Gary Munson – Denied

Lance Lowe – Granted, on probation, license to only cover property management

Christopher Blake – Granted on probation

William Massie – Granted on probation

Janna Woods – Denied

Don Millburn – Revocation is reversed

Applicants with Lesser Criminal Connections:

Mark Martinez - Approved

Paul Callister - Approved

Darla Christiansen - Approved

Chandler Cowles - Approved

Rachel Fox - Approved

Trent Henderson - Approved

Joshua Higley - Approved

Annette Jennings - Approved

Michael Merrill – Schedule for hearing

Denise Underwood – Schedule for hearing

Katie Victor - Approved

Pyese Winfield - Approved

Stipulation – Todd C. Lish – Not accepted

A motion was made and accepted to adjourn the meeting at 4:20 p.m.