

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
March 16, 2005

MINUTES

STAFF MEMBERS PRESENT:

Dexter Bell, Division Director
Mark Fagergren, Education/Licensing Director
Jon Brown, Enforcement Director
Dee Johnson, Investigator
Dave Mecham, Investigator
Renda Christensen, Board Secretary

COMMISSION MEMBERS PRESENT:

Gage Froerer, Chair
Dorothy Burnham, Vice Chair
Maralee Jensen, Commissioner
Bonnie Peretti, Commissioner
H. Blaine Walker, Commissioner

GUESTS

Kevin Bishop
Karen Post
Linda Leavitt

The March 16, 2005, meeting of the Utah Real Estate Commission began at 9:04 a.m. with Chair Gage Froerer conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes of the February 16, 2005 meeting were reviewed and found to need correction. Commissioner Burnham requested an amendment to a statement under "Other Business," about proposed legislative language to allow the Education Fund to pay for legal drafting expenses for state-approved forms. The minutes were changed to read: "The Commission objected to the proposed language and suggested alternative language to take to the Legislative Counsel." Ms. Wismer said on page 5, under the Frank Kilby hearing, her name was not listed as Counsel. The minutes were so amended, and then approved as amended.

DIVISION REPORTS

INVESTIGATIONS REPORT – Jon Brown

30 written complaints were logged in February, 10 new cases were opened for investigation, and 36 cases were closed. The total of open cases is 210. The large

number of cases closed was in part due to the hard work done by Dave Mecham, the new real estate investigator.

Mr. Brown said there is a need for a new rule to deem as unprofessional conduct licensees altering or signing a client's name after documents have been signed, and not taking documents back for a counter offer. He suggested that Ms. Wismer draft two rules, one to cover the signing issue, and the other to cover altering a document after signing unless a Power of Attorney is provided. The Commission agreed to have Ms. Wismer draft these two rules.

DIRECTOR'S REPORT – Dexter Bell

Director Bell said some states have implemented a system where the schools and CE instructors have computerized attendance records that they can download directly to their Divisions. This system would eliminate the CE certificates currently being used, as well as the need for CE audits. The Division outside testing contract expires at the end of this year, and in the RFP for a new contract the Division will ask for the capability to record and verify CE by computer.

The "cheat" rate so far is running at 18% for on-line renewals. The Commission is concerned with the high rate of those affirming they have complied with the renewal procedures, who when audited, can't document attendance. The 18% figure is from auditing only 40% of those on-line renewals. Ms. Christensen said in the months of February (which would be audits for January) and March (covering the February audits), there will be 35 cases so far turned over for investigations. The most common problems are not taking the Core Course, and not taking classes until after the audit letter was received.

Director Bell passed out a draft of the new Qualifying Questionnaire for the Commission's approval. Commissioner Walker objected to the question of whether applicants have ever been disciplined or fined by any professional association. The majority of the Commission favors asking the question, but after much discussion, the Division and Commission agreed to proceed with the 10 questions already agreed upon, and table the latter question for further review. This will allow the Division to determine whether the question would somehow serve to chill the disciplinary actions or programs of the Utah Association of Realtors, the Utah Chapter of the Appraisal Institute, the Utah Mortgage Lenders Association, etc.

Director Bell handed out a summary of SB172 showing what changes will take place in the real estate licensing statute on May 2, 2005, when SB172 becomes effective.

Kevin Bishop sent a letter to Director Bell stating his concerns about the process he is going through to buy a house. Mr. Bishop stopped at a house for sale and asked to see the property, but the listing agent wouldn't allow him to see the house without his agent present. Mr. Brown said the listing agent needs to show the property whether or not Mr. Bishop has an agent. The Commission responded that existing rules govern the situation.

Director Bell asked Commissioner Walker to describe SB64, which will assign to the Division and Commission regulation of Tenants In Common ("TICs") sales. The bill will put a significant burden on the Commission to create rules and regulations governing TIC sales, specifically master leases and management contracts. The Commission will also need to generate new forms for disclosure to TICs. Ms. Wismer noted she had a call from Mark Griffin, the former Director of the Securities Division. He is currently the attorney hired by the Tenants In Common Association ("TICA"), and would be willing to attend a Commission meeting to give some guidance on writing new rules. Director Bell said SB62 will be effect on May 2, 2005 and the new employee for the Division will not be funded until July 1, 2005, so drafting and implementation of the rules will likely be delayed. Ms. Wismer said it might be possible to get emergency rules in process, if necessary.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren went over the statistics report and noted the steady increase in numbers of licenses of both the real estate and mortgage industry.

Mr. Fagergren brought up the topics discussed at the Public Input Session last month. He listed the topics recommended by various hearing speakers: 1) Increasing pre-licensing education hours to 180 hours, 2) Requiring more time spent on forms, 3) Splitting the 90 hours into general subjects and electives, 4) Requiring further hours after a short period of practice (30 additional hours after 3-6 months), 5) Requiring mentoring, 6. Allowing distance education for pre-licensing, and 7) Requiring a high school diploma or GED for licensure.

Mr. Fagergren recommended four items as the most reasonable to consider: 1) requiring a high school or GED, 2) allowing distance education for pre-licensing, 3) increasing hours spent studying forms, and 4) additional training for first renewals.

OTHER BUSINESS

Chair Froerer brought up establishing a task force on pre-licensing education. Director Bell said a task force is a lot of work and requires a lot of time. Mr. Fagergren said if the Commission decides to create a task force, it should narrow the scope to the four issues he mentioned. The Commission agreed. It was agreed the task force be made up of people from the title industry, educators, the real estate industry, and that it should include Mr. Fagergren. The UAR will be asked for suggestions as to the members of the task force.

Commissioner Walker made a motion to establish a task force of no more than 5 members plus Mr. Fagergren, to review the existing pre-licensing education rules. One member will be from the education field, and the Utah Association of Realtors will be asked to submit a list of up to 10 recommended members. The Commission will choose the task force members. The task force will cover the four topics listed above. The motion passed unanimously.

LICENSING HEARINGS

10:45 Cody Judkins – Application for License
Robin K. Nalder, Attorney

11:08 Jeffrey Katsilas – Application for License Renewal

A motion to go into Executive Session was passed, and was held from 11:55 a.m. to 12:55 p.m. This was a working lunch.

1:04 Richard Weeks – Application for License

2:00 Michael McAllister – Application for License
Jason Gilbert, Broker

2:10 Glen Gardner, Jr. – Application for License Renewal
Pamela Gardner, Wife

Review of Lesser Criminal Convictions:

Rhett Allen
Bryan Birch
Ryan Christensen
Nathan Dabb
Nathan Eaton
Christopher Evans
Juan Guerra
Jason Jones
Sara Kener
Amanda Lucas
Frank Mares
Susan A. Moyes
Kirby Petersen
Lance E. Shunn
Kristi Tafoya
Bradley D. Thompson
Cindy Tugaw
Cassandra Vieira
Glen Warner
Kory West

A motion to go into a second Executive Session was made and held from 2:37 p.m. to 2:57 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearings:
Cody Jenkins – Granted
Jeffrey Katsilas – Granted

Richard Weeks – Denied
Michael McAllister – Granted
Glen Gardner, Jr. – Granted

Stipulations:

Brandee Fox – Not approved. The fine should be raised to \$1000.
Bonnie Lyons – Not approved. The fine should be raised to \$2000.
Jared M. Ruplinger – Approved
Doyle M. Johnson – Approved
Laron Zaugg – Accepted with one change to include that he be placed on probation for two years.

Lesser Criminal Convictions:

Rhett Allen – Approved
Bryan Birch - Approved
Ryan Christensen – Schedule for hearing
Nathan Dabb - Approved
Nathan Eaton - Approved
Christopher Evans – Schedule for hearing
Juan Guerra - Approved
Jason Jones - Approved
Sara Kener - Approved
Amanda Lucas - Approved
Frank Mares - Approved
Susan A. Moyes - Approved
Kerby Petersen – Schedule for hearing
Lance E. Shunn - Approved
Kristi Tafoya - Approved
Bradley D. Thompson – Schedule for hearing
Cindy Tugaw - Approved
Cassandra Vieira - Approved
Glen Warner - Approved
Kory West - Approved

OTHER BUSINESS

Commissioners Walker and Peretti will both be unable to attend next month.

A motion was made and passed to adjourn the meeting at 3:00 p.m.