

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
November 15, 2006

MINUTES

STAFF MEMBERS PRESENT:

Jon R. Brown, Enforcement Director
Mark Fagergren, Licensing/Education Director
Dee Johnson, Chief Investigator
Blaine Ferguson, Assistant Attorney General
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Amanda Orme, Mortgage Education Coordinator

COMMISSION MEMBERS PRESENT:

H. Blaine Walker, Chair
Bonnie Peretti, Vice Chair
Doyle "Sam" Sampson, Commissioner
Kay Ashton, Commissioner
Gary Hancock, Commissioner

GUESTS

Lance Miller

The November 15, 2006 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chairman Walker conducting.

Director Miller is attending an ARELLO Advanced Training Conference and will not be here today. Mr. Fagergren will be Acting Director in the hearing.

Approval of Minutes

The minutes for October 18, 2006 were approved as written.

OTHER BUSINESS

Mr. Johnson reminded the Commission this is Mr. Brown's last Real Estate Commission meeting. He will be retiring on December 15, 2006 and the Division is having an appreciation reception for him that day. Mr. Johnson invited the Commissioners and guests to attend from 11:00 a.m. to 1:00 p.m.

Chairman Walker took a minute to thank Mr. Brown for all of the good work he has done for the Real Estate industry and said that he would be greatly missed.

Chairman Walker asked Ms. Wismer if arrangements could be made to have Mr. Ferguson conduct a Commissioner training session. While attending the recent ARELLO convention he and Commissioner Peretti had the opportunity to attend a new Commissioner College course. Chairman Walker would like to have the same sort of training done for the Real Estate Commissioners who could not attend, because he thought the course was very informative.

Commissioner Ashton said the Insurance Commission has done a proposed rule on split closings. He believes the Real Estate Division needs to address it because he doesn't think it specifies who is entitled or responsible for ordering title policy. Commissioner Ashton thinks it needs to be clarified so it would head off any problems. Ms. Wismer said if it is in the public comment period and said she would try to find it and make copies for the Commission for their review.

Commissioner Hancock has suggested perhaps the Commission consider a small statute change. R61-2-20(1), currently says principal brokers and associate brokers may fill out any documents associated with the closing of a real estate transaction. Mr. Brown said this would be a statute change and has to be handled through the legislature. Commissioner Hancock is proposing to drop "associate brokers" and change it to "branch brokers." Mr. Fagergren said currently it allows for associate brokers to close a transaction and it could be potentially dangerous if the principal brokers isn't aware of what is going on. Mr. Brown said it could be addressed by company policy. Ms. Wismer said she would look up the history of the statute. Commissioner Peretti suggested this change be brought up to Director Miller for his review.

DIVISION REPORTS

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the Instructor Development Workshop was successful and well attended. The evaluation comments reflected those attending were supportive of the need for the IDW. He thanked Ms. Wall for making all the arrangements and organizing everything needed.

The lead article in the newsletter last month reflected a problem that enforcement has seen lately. The Division has seen well-intentioned agents getting caught up in illegal scams and flipping schemes. Mr. Fagergren hopes the article will help good agents take a closer look at opportunities being presented that could potentially be harmful.

Mr. Fagergren introduced Toni Heldman and Celia Corey to the Commission. These women handle all new real estate license applications, renewals, companies, and phone calls. Ms. Heldman has been with the Division for 8 years, and Ms. Corey joined the Division this year. Both employees are thoughtful, conscientious and responsible. Mr. Fagergren said the Division is very pleased with their work and dedication. Ms. Heldman made the comment they get an average of 80-100 phone calls per day. Mr. Fagergren said approximately 65% of our renewals are on-line now and it has helped with the workload. Ms. Christensen said when she was auditing the Division phone bills, Ms. Corey had returned 757 out-going calls in the month of September. That

doesn't include any incoming calls, just the amount she has returned.

Commissioner Peretti said Commissioner Sampson never had an article in the newsletter as a new commissioner. Ms. Wall will follow up with Commissioner Sampson and get his information for our next newsletter.

INVESTIGATIONS REPORT – Jon R. Brown

Mr. Brown reported in the month of October, the continuing education audits show 7 new cases opened for investigation, 16 cases closed, 1 Stipulation signed by the Commission, leaving the number of open audit at 21.

On the real estate complaints, there were 58 written complaints logged, 30 complaints screened (no cases opened), 21 new cases opened, 6 cases closed, leaving the number of open case files at 156. During the month of October, our T.I.C. investigator left the Division of Real Estate and went over to the Department of Insurance. This leaves two open positions which have been given to Human Resources to post.

Mr. Brown thanked the Commission for their support over the years and said it had been a pleasure to work with them. The Commission gave him a rousing ovation and again thanked him for his 17 years of work.

Mr. Johnson said the Division has grown from approximately 15,000 licensees 8 years ago, to currently over 40,000 licensees (appraisers, real estate, and mortgage combined). Enforcement receives approximately 1,300 complaints during the year. That is about 3% of licensees, and of that 3% they receive multiple complaints on about 1½% of the licensees. Mr. Johnson said just like Licensing being overrun with phone calls and questions, Enforcement is exactly the same way. This is why there is sometimes a build-up of some of the open cases. Mr. Johnson said not only are the number of complaints increasing, but the types are becoming more serious all the time, and they are multiples. The cases they are seeing involve the appraiser as well as the mortgage officer. This is increasing the number of cases being reviewed by Enforcement. Mr. Johnson said as many times as not, their investigation exonerates the licensee as it does to condemn them, but each of them still has to be investigated and it all takes time. He said until the market changes completely and there is a slow down, because inflation and/or appreciation cover up problems, it will continue to grow.

9:45

CLOSED TO PUBLIC

Strategy session to discuss pending litigation (Peter Coats v. Utah Department of Commerce, Division of Real Estate, Third District Court, Salt Lake County, Case No. 000901556).

10:07

Open session to public. A motion was made and accepted to have Jon R. Brown to speak for the Commission on the upcoming court hearing.

LICENSE HEARING: **CLOSED TO PUBLIC**

10:15 Douglas Reynolds – Application for License
Dave Sampson, Principal Broker, C-21 McAfee Realtors (East)
Jon R. Brown, Enforcement Director, Division of Real Estate

Review of Stipulation

Michael L. Shehan

OTHER BUSINESS

Ms. Wismer said there is a proposed rule that has passed the public comment period and is ready to be made effective, R162-3, License Status Change. The rule is amended to 1) clarify the number of hours of continuing education that are required to activate an inactive license at the time of license renewal; and 2) provide for a "New Agent Course," with the content to be specified by the Utah Real Estate Commission.

A motion was made, with the concurrence of the Acting Director, to make the rule effective. The motion passed unanimously.

Ms. Wismer said the Division received an e-mail from Brian Brunson asking the Commission and the Attorney General's office to develop a standardized warranty deed. Chairman Walker said he would like to have the Division make a call to Mr. Brunson to see what his specific concern was and then it can be brought up at the next meeting.

A motion was made to go into an Executive Session from 12:26 p.m. to 1:30 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearing:

Douglas Reynolds – The application was granted on probation with conditions. The conditions are as follows: 1) While his license is on probation he shall provide to the Division a written acknowledgement, signed by any broker with whom he proposes to license, acknowledging that the broker has been informed this his license has been issued on probationary status. The Division must receive this written acknowledgment from each broker it is authorized to license Mr. Reynolds with that broker. 2) It is mandatory that any application for a Utah Broker License filed by Mr. Reynolds must be presented to the Commission for review. That review will include in its entirety the March 15, 2000 Stipulation the basis for that Stipulation with the Division.

Stipulations:

Michael L. Shehan - Approved

A motion was made and accepted to adjourn the meeting at 1:32 p.m.