

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
March 21, 2007

MINUTES

STAFF MEMBERS PRESENT:

Derek B. Miller, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Dave Mecham, Investigator
Marv Everett, Investigator
Carlos Alamilla, Investigator
Amanda Orme, Mortgage Education Coordinator
Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

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

GUESTS

John Schoppe
Tammy Lund
Kevin Swenson
Michael Welker
Lance Miller
Chad Ahearn
Glenn Welker

The March 21, 2007 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Walker conducting.

Approval of Minutes

The minutes for February 17, 2007 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller reported two days ago the Governor signed SB199, the Division's bill, which was supported by this Commission and industry members. The changes will go

into effect on April 30, 2007. A question was asked by the Governor's office about SB199 regarding dual licensing of title agents and real estate licensees. There is language in the bill which says a person can't receive any compensation or anything of value from a principal in the transaction that is providing the insurance within the last 18 months. Director Miller said he believes this would prohibit a person from acting as the title insurance provider and the real estate licensee in the same transaction. The title industry wasn't sure if the wording was specific enough, so Director Miller asked Ms. Wismer to draft a rule to clarify the issue. The wording would add to the real estate rule the explicit prohibition of a licensee from acting as both a real estate agent and broker on the same transaction in which they are providing any kind of title service. The Commission reviewed the draft and made a motion to approve the rule change and start it in the rulemaking process. The motion was passed unanimously.

Director Miller said last month the Commission reviewed education rules and yesterday the Division received approval to get the rules posted for public comment. He would like to schedule a public hearing for next month to get any public comments.

Director Miller said he and Chair Walker attended a Tenant In Common Association ("TICA") meeting in Washington, DC last month. It was a successful meeting, and prior to the TICA meeting, Director Miller and Chair Walker met with some representatives from the National Association of Realtors, National Association of Securities, North American Association of Security Administrators, and also some representatives from the TICA Association. At that meeting it was decided to form a task force to help clarify some of the issues in this industry in regards to when a TIC is securitized and who ought to be involved in regulating. If it's not securitized, what the regulation should look like, and when real estate agents are involved in both of those (whether it has been securitized or not) what their roles ought to be. The purpose of the working group would be to come up with some model regulations. Utah passed a law a couple of years ago to clarify the fact that TIC's are a real estate transaction. The Division may need to look into clarifying that law so when they are securitized there is involvement from the Securities Division in regulating broker-dealers who are involved in those transactions.

Chair Walker said the meeting went well and said Director Miller sat on a panel of regulators and a member of the National Association of Realtors. Director Miller said there were a few things mentioned on the panel he believed misrepresented what our state law was, so he was pleased to have a chance to clarify the law. Utah is the only state to have a law in place on this topic, so other states are looking to us on what has been done and what we are going to do. Montana and Oregon are two states that have laws in their current legislative sessions, and both Director Miller and Chair Walker have spoken with them and shared experiences that have been learned. Chair Walker said Director Miller is the Vice-Chair of ARELLO's TIC Advisory Group.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson announced to the Commission that Dave Mecham has been made the new Chief Investigator for the Division. He also introduced Lesly Wastlund as the Division's

new investigator. Ms. Wastlund has been a broker in the Salt Lake and St. George areas, and has recently moved to Salt Lake City from St. George. Mr. Johnson said the Division has an excellent staff of investigators with long backgrounds in real estate. They are well experienced and can follow a transaction from beginning to end and can now complete the investigative side. Commissioner Sampson said he knows Ms. Wastlund and she is well respected in the St. George area.

Mr. Johnson said in February there were 6 new audit cases opened, 12 cases closed, 3 stipulations/orders signed by the Commission, leaving 18 open audit cases.

The investigative cases for February show 39 written complaints logged, 34 complaints screened (no cases opened), 6 cases closed, leaving 180 open case files.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren said discussion of the rules on education will be deferred until the public hearing next month. He said all questions and concerns can be discussed in the April meeting.

Mr. Fagergren said the statistics show there are just under 19,000 active real estate agents and brokers which has grown from just about 16,500 last year. These are for active licensees, and when you add in the approximately 5,000 inactive agents it continues to show the constant growth pattern. He said in talking to the licensing staff yesterday, the volume just keeps growing. They are averaging 20 change cards per day for the mortgage industry, and 70 change cards per day for real estate. There are two individuals who handle broker applications, renewals, and phone calls. Now with the current legislative session passing the Division's bill the Division will be able to hire two more licensing technicians to help the work flow. One will help with mortgage and the other in real estate.

Mr. Fagergren said individuals who are pre-license instructors or CE instructors, real estate schools, and CE providers, were all sent a copy of a letter announcing a change allowing providers to offer courses in "core" topics as opposed to the Division-provided "core" course. He has received a number of calls from people who are curious about the change, and they are considering offering some courses. The Division is receiving applications for course approvals on these new topics. It will give people choices and the change seems to be well received.

The Division offices have been under construction because of some reconfiguring going on, and now all of our employees have their own cubicles. In the past we had some cubicles with two people in them. The Division will have a new conference room and there are no longer any boxes piled on the tops of cabinets because the Division now has more file space.

Mr. Fagergren wanted to compliment a member of the Division's staff. Amanda Orme is the Division's Mortgage Education Coordinator and she recently found some activity that looked a little strange. She compiled information and presented it to Mr.

Fagergren, and the Commission has a Stipulation to review today as a result of her work. He wanted to let her know that her work is appreciated and she is a valued employee.

Director Miller said the Division has been told that by the end of April the Division should have a system of on-line change cards in place. It will allow every licensee to establish their own account and manage their own changes (i.e., new addresses, phone numbers, company changes, etc.). It will take the Division out of this part of the business, which is a good thing. The changes will now be instantaneous, and if there is something incorrect, it will be because the person has entered it incorrectly, not the Division.

Director Miller wanted to commend Ms. Orme for her work in updating the Division's web site. The new site went live yesterday, and all of the staff should be commended for the painstaking process of coming up with frequently asked questions to have on the site. The web is now organized by industry with each tab having answers, form, and links to information frequently used.

LICENSE HEARING: CLOSED TO PUBLIC

10:00 Neal Jackman – Experience Review
Mark Fagergren, Education and Licensing Director
Toni Heldman, Division Staff

OTHER BUSINESS

Review of Stipulations:

Alice Coffman
Ryan N. Quinton
Ryan Pool
Charles O'Brien
Jared Bringhurst
World Savings Bank
Susan L. Hamilton
Darren K. Difrancesco
Robert W. Steed

OPEN TO PUBLIC

11:50 Training by Attorney General on Administrative/Hearing Procedures –
Blaine Ferguson, Assistant Attorney General

OTHER BUSINESS

Director Miller said the Division has a hearing coming up in June and he is recommending having an Administrative Law Judge's help in conducting the hearing. That doesn't mean the Administrative Law Judge will act as the decision maker, his only capacity will be to conduct the hearing. Director Miller and the Commission will still be the decision makers in that hearing. A motion was made and passed to have an

Administrative Law Judge's help on the Charlotte Christiansen hearing scheduled for June.

CLOSED TO PUBLIC

A motion was made to go into an Executive Session from 10:56 a.m. to 11:50 a.m.

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

Informal Hearing:

Neal Jackman – Denied

Stipulations:

Alice Coffman - Approved

Ryan N. Quinton - Approved

Ryan Pool - Approved

Charles O'Brien - Approved

Jared Bringhurst - Approved

World Savings Bank - Approved

Susan L. Hamilton - Approved

Darren K. Difrancesco - Approved

Robert W. Steed - Approved

A motion was made and accepted to adjourn the meeting at 1:30 p.m.