

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building  
Second Floor - Room 210  
9:00 a.m.  
February 13, 2008

### **MINUTES**

#### STAFF MEMBERS PRESENT:

Mark B. Steinagle, Division Director  
Dee Johnson, Enforcement Director  
Mark Fagergren, Education and Licensing Director  
Laurie Noda, Assistant Attorney General  
Renda Christensen, Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator  
Van Kagie, Investigator

#### COMMISSION MEMBERS PRESENT:

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

#### GUESTS

Tammy Lund  
Marti Stringham  
Lance Miller

The February 13, 2008 meeting of the Utah Real Estate Commission began at 9:04 a.m. with Chairman Walker conducting.

#### Approval of Minutes

The minutes for the January 16, 2008 had a correction that needs to be added. In the report given by Mr. Fagergren there was discussion as to the Education Committee and possible candidates. The following clarification needs to be added: "Chair Walker said he would recommend the following individuals for consideration: Jack Marinello, Arnold Stringham or Marti Stringham, and Tammy Lund and from other names from the list suggested."

After this clarification the Commission passed a motion to approve the Minutes as amended.

Chair Walker welcomed Director Steinagle for his first "live" hearing with the Commission. He also recognized a group of visitors today mostly who are primarily educators. He had the opportunity to attend a meeting being held by the Education

Committee yesterday. Chair Walker said he believes the Committee is doing a great job working on the broker classes. He appreciates the efforts of Mr. Fagergren and the Committee and the Commission is looking to the final outcome of the recommendations coming back to the Commission.

## **DIVISION REPORTS**

### DIRECTOR'S REPORT – Mark B. Steinagel

Director Steinagel said he is very impressed with the real estate industry these last thirty days. He appreciates how closely the industry works with the Division. He has noticed in his first month that this closeness does not always apply to other Divisions in the Department of Commerce and other departments in the State.

Director Steinagel handed out a copy of the draft rule on getting a continuing education course approved before it can be advertised, and said the same rule has been presented to the Mortgage Commission last week and they did not have any changes. The draft will be addressed next month if there are any changes or additions the Commission might have.

Director Steinagel gave an update on the Utah Housing Authority Restricted Account. It has come from the Executive Director back to the Division and is now in the AG's office. It should be ready to go up to Administrative Rules and go through the public comment period very soon. The Department has made comments that have been incorporated into the rule.

Director Steinagel gave an updated report on what was happening at the Legislature. The Division bill is primarily a clean-up bill, but there are some substantive issues he would like to highlight. There is a clarification that UDOT requested from the Division, and Representative Froerer who sponsored the bill, that the Division clarifies the exemption from real estate licensure for those doing transactions on behalf of UDOT.

Director Steinagel met with the Attorney General and got some input on granting the Commission rulemaking authority. The Real Estate Commission and the Attorney General have to approve the State forms that are used. UAR's concern is that the process is completed by them and then turned over to the AG's office and it is started all over again. He suggested that the Commission still have the same approval but the Commission now has rulemaking authority to define the approval process.

The second bill that would be of interest to the Commission would be Senator Killpack's Mortgage Fraud bill. Currently, what it does is define new criminal penalties by appropriating money and creates a new position within the AG's office where they can have a prosecutor, two investigators and a paralegal who would be spending 100% of their time in mortgage fraud. It defines mortgage fraud broad enough that they can go after. A portion of the bill states,

"If a person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:"

"knowingly makes any deliberate misstatement, misrepresentation, or material omission during the mortgage lending process that is relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;"

"knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation or material omission during the mortgage lending process that is relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process, files or causes to be filed with any County Recorder in Utah any document that the person knows contained a deliberate misstatement, misrepresentation or material omission, and receives any proceeds or any compensation in connection with a mortgage loan that the person knows resulted from a violation of this section; and part of the last part is or assist, abet, solicit, or conspire with another to violate this section."

The AG and Statewide Association of Prosecutors have been heavily involved in drafting this language. The penalties depend on whether it is a Class A Misdemeanor, Third Degree Felony, Second Degree Felony, depends on the financial gain that the person benefited. It all has to do with intent.

Ms. Noda said the AG's Office really appreciates working with Director Steinagel on this rule. They are happy to get involved early in the process and do whatever we can do to expedite the process early on.

Director Steinagel said there are a couple of other bills that might impact the Division. Representative Ferry has a bill (HB394) that would require notification of water rights, if the property has water rights attached to it. Senator Dayton has a bill (SB222), Real Estate Licensing and Presence in the United States, which would require the Division to verify the legal presence of anyone that applies for a license. Director Steinagel said the Division would probably have to put a fiscal note on this bill.

#### INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson reported in January the Division received 65 complaints, screened 66 complaints, opened 13 cases, closed 11 cases, leaving 132 open cases. The Division's goal is to get the number down to 100 cases with 30-33 cases for each investigator.

Mr. Johnson gave the Commission an update covering the last four months. In the last four months, not including this month, there were 35 stipulated agreements that have been brought before the Commission and Board (15 were Real Estate). There were 11 revocations, 3 surrenders, and over \$269,000 in fines. Since the statute has been changed and the Division has been allowed to fine up to \$2,500 per violation, we have increased the amounts fined. Also included in this number are two cases where the Division has taken brokers and reduced them to sales associates because of their actions. The fines collected go into the Education Recovery and Research Fund.

There are two stipulations being presented today. Both of the respondents were

allowed to appear if they wanted to either speak to or answer any questions to their stipulations. Both have chosen not to appear.

Review of Stipulations:

Preston T. Boswell

Bryan D. Ball

Commissioner Sampson said he has received 6 or 7 calls from agents who have not been paid by their brokers. He wanted to let the Division know they might be receiving some calls from these people. Commissioner Sampson instructed them to go to the Division's website and file a complaint. Mr. Johnson said these would be civil matters and that the Division can't discuss any current investigations.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren said he would like to advise the Commission that our new Director, Mark Steinagel, has been interesting to watch in how attuned he is to the Legislative process. Mr. Fagergren said that Director Steinagel is well known among the staff, legislators, lobbyists, etc. He has expanded the cities for the upcoming Caravan to try and get out and find out what is going on in the outlying cities. Director Steinagel wants to balance the issues between the public protection and industry regulation.

There are several members who are on the Education Committee here today. The Chairperson, Marti Stringham, Co-Chair, Tammy Lund, and Lance Miller are present and he would like them to give a brief report as well as a recommendation that they would like to provide the Commission with today. Other members that are on the Committee are Dave Johnson, Lee Holt, Linda Leavitt, and Mr. Fagergren.

Ms. Stringham said it was recommended that, with the exception of Dave Johnson and Mr. Fagergren, everyone else is an educator. Yesterday it was decided to scrap the current outline except to use it as a jumping off point to look at it topic-wise. We also felt like it would be very beneficial to have the different view point come into what we are discussing because we want to do it right the first time. The Committee would prefer to have some additional committee members to represent the viewpoint of the broker and looking at it from the point of view of what they did or didn't know at the time they became a broker. The next meeting is planned for March 4<sup>th</sup>, Tuesday. They would like a new broker and one that has been in the business for a long time. Names being submitted for suggestion are Richard Lockwood, Ryan Kirkham, Butch Dailey, Bob Welch, Mark Ulrich, Jared Payne, Jeff Thayne, Curtis Bullock, and Darlene Dippo.

Mr. Fagergren said the draft rule is about balancing the imposed requirements by way of regulation on individuals or the industry versus the good that can be received from it. This is truly a rule that has been prepared to protect the industry itself. It happens far too often that hundreds of people are taught a class with a belief that it counts for CE only to find out later that it doesn't or that the course as advertised is different, or the number of hours are different. The Division has tried to shorten its review time so it's a maximum of less than 30 days from the previous 60 days.

The Caravan 2008 flyer has been prepared by Ms. Wall and she has done all the preparations in terms of making the arrangements at all the sites. Director Steinagel has approved the schedule for April and May to go down to eight different locations throughout the state, and will offer 3 hours of CE.

LICENSE HEARINGS: **CLOSED TO PUBLIC**

10:12 Laura Brunello, Application for License  
Hector Brunello, Husband  
Eduardo Naude, Principal Broker

11:00 Kathy A. Montague – Application for License  
Greg Skordas, Attorney

A motion was made to go into an Executive Session from 11:45 a.m. to 1:08 p.m. This is a working lunch.

1:08 Joseph Umbertino – Application for Renewal of License  
He has requested to reschedule his hearing until the next live hearing in April. The Commission discussed this request and has passed a motion to accept the request to reschedule.

1:18 Jason Barker – Review of decision by Division  
Review of decision by Division. Mr. Barker did not appear, nor did he contact the Division to reschedule.

A motion was made to go into an Executive Session from 1:25 p.m. to 1:43 p.m.

RESULTS OF EXECUTIVE SESSION

Stipulations:

Preston T. Boswell - Approved

Bryan D. Ball – Approved

Charlotte Christiansen - Approved

A motion was made and accepted to adjourn the meeting at 1:45 p.m.