

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

September 17, 2008

MINUTES

STAFF MEMBERS PRESENT:

Mark B. Steinagel, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education and Licensing Director
Traci Gundersen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Carlos Alamilla, Investigator
Kurtis Hughes, Investigator
Dave Mecham, Investigator
Charles Smalley, Investigator

COMMISSION MEMBERS PRESENT:

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

GUESTS

Paul Naylor
Peter Stevens
Gary Madsen

The September 17, 2008 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Walker conducting.

Administrative Law Judge Masuda Medcalf administered the Oaths of Office to the new Commissioners: H. Blaine Walker (reinstated) and Stefanie Tugaw.

PLANNING AND ADMINISTRATIVE MATTERS

Elections were held and the new officers for the upcoming year are Doyle "Sam" Sampson as Chair and Gary Hancock as Vice Chair. Commissioner Walker will continue to act as Chair for the remainder of this meeting.

Commissioner Walker announced for the record that Chair Sampson was awarded Realtor of the Year at the UAR Installation Banquet last night. A previous Commissioner, Gage Froerer, has been given the Distinguished Service Award.

Chair Walker mentioned a letter from the Attorney General that was handed out today approving the new REPC and forms. He thanked the UAR, Commissioner Hancock, and the Division of Real Estate and staff for all those who helped in the process of getting the new forms approved.

Chair Walker took a few minutes to recognize and thank the Division and staff for their hard work while he has been Commission Chair. He is looking forward to serving another four years on the Commission. Commissioner Ashton said he spoke for the rest of the Commission in thanking Chair Walker for his work.

Approval of Minutes

The Minutes from the August 20, 2008 meeting will be reviewed in the October meeting along with the Minutes from this September meeting.

DIVISION REPORTS

DIRECTOR'S REPORT – Mark B. Steinagel

Director Steinagel said the Division website now has a quick link to the new REPC and addenda. The new forms were effective on August 27, 2008 which is the date the Attorney General signed the forms. The use of either form can be used from August 27, 2008 until December 31, 2008. Beginning January 1, 2009 the new REPC must be used.

All of the pre-licensing instructors will be taught by Curtis Bullock from the UAR at the Division's Instructor Development Workshop about the changes on the new REPC and addenda that were just approved.

Director Steinagel welcomed Commissioner Tugaw. She took a few minutes to introduce herself to the Commission and Division by saying she is from Brigham City where she was raised. Commissioner Tugaw recently got engaged to Gary Madsen and will be getting married on October 4, 2008. She has been in the real estate industry for twelve years and has served as her Board's president and State president. She is excited to be part of this Commission and is looking forward to her term.

Director Steinagel made a presentation to the Commerce and Workforce Services Appropriations Sub-Committee at the Legislature last week and was asked a question from one of the Legislators that reflects many of the members of the public and how they are feeling about the current housing industry. This individual asked Director Steinagel if the American dream of homeownership was dead. He said there are some challenges going on in the market, but there are also positive things as well. This is a great time to build a home. If you are a buyer in the market, there are many opportunities and affordable properties.

Commissioner training taught by the Attorney General's office has been scheduled for the October meetings for the Mortgage Commission as well as the Appraiser Board. Director Steinagel asked the Commission if they would like to have their training

scheduled for next month as well. The typical block of time is four hours and the Commission has approved the training for the meeting next month. Since there are already hearings scheduled for next month, the training might be broken up into two segments of two-hours each for the next two months.

Director Steinagel said the S.A.F.E. Act has recently been passed and will have a large impact on the mortgage industry. Instead of a two-year license all licenses will now have an annual renewal, and all licensees will have to go through a nationwide mortgage licensing system. Director Steinagel is on the Implementation Working Group with 16 other states, and he is also on the sub-group of that Working Group that deals with the examination and education. There are five states in that sub-group.

Director Steinagel addressed two policy issues that are commission and industry issues; one a rule, and one a statute. Statute 61-2-10 prohibits acceptance of valuable consideration from any person except the principal broker. The issue was discussed in July's Commission meeting. The Division has been asked by those in the title industry to issue an opinion on this matter. He read a draft letter to the title industry and asked for input from the Commission and Division. The issue is if the statute should be modified or left alone.

Peter Stevens, past counsel for the Insurance Division, is here today as independent counsel not representing the title industry or any specific agency. Mr. Stevens said the problem now is that an agency has to send a 1099. Chair Walker asked if it was the obligation of the title company to send a 1099 in an instance where money is paid to the contractors, etc., and Mr. Stevens answered that if they were a corporation the answer would be yes. Director Steinagel said the cost recuperation is an issue with the Division and Commission, not necessarily the 1099 issue. Chair Walker said that if a statute were written to change the current wording it would have to be specific as to what has to happen. Commissioner Sampson said he doesn't want the statute liberalized. Commissioner Tugaw, Commissioner Hancock, and Commissioner Ashton all agree with Commissioner Sampson.

There has been some discussion on the property management rule. Currently, there is one rule in place stating the business of a separate property management company shall be exclusively property management. No real estate sales activity may be conducted by a property management company. Property management companies must meet the same licensing requirements as a brokerage but can not sell properties. Director Steinagel said he would bring a proposal back next month.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of August the Division received 41 complaints; screened 36 complaints; opened 16 cases; closed 17 cases; and, the total number of cases is now 155.

Mr. Johnson said each of the respondents in the respective Stipulations was given the opportunity to come before the Commission today and each decided not to attend.

Review of Stipulations

Khammone Turpin
Suanne Hoffman
Roger W. Reeve
Jamie G. Adams
Douglas S. Reynolds

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the Instructor Development Workshop will be held on September 29 and 30 at the Yarrow Hotel in Park City. All Commissioners are invited as guests of the Division for either one or both days. Chair Walker is on one of the panels about what a licensee should know along with someone from the Appraiser Board and the Mortgage Commission. The first day will be about instructor techniques taught by a real estate attorney/lecturer, and the second day will cover training on the REPC. Also covered will be information on the S.A.F.E. Act by Director Steinagel; new broker curriculum will be addressed by Paul Naylor and Marty Stringham; and, commission discussion and appraiser updates in the afternoon.

COMMISSION AND INDUSTRY ISSUES – H. Blaine Walker

Commissioner Hancock asked if it were possible to have better organization on topics that were being addressed. He suggested it would be helpful on the Division reports if they would distribute an outline of the subject matter with enough space to write notes. This would be helpful especially if the subjects were carried over to the next meeting.

Commissioner Sampson brought up the topic of expired licenses. He asked why there was a six month time frame to reinstate before they had to take the 90-hours over again. Perhaps the six month period could be increased to one year with additional continuing education. Mr. Fagergren said the statute states there is a six month limit to reinstate the license, and after that date the person must reapply as a new licensee.

He said this is a professional license and the licensee needs to be responsible to keep the license active. Director Steinagel and Mr. Fagergren both commented that if the time limit were extended to one year, there would still be licensees coming in one day past the one year limit. Chair Walker asked if a person could be given credit for being in the business or education instead of starting at the beginning. Director Steinagel said the statute is very specific on the deadline of six months. He suggested perhaps adding additional continuing education from the six month deadline to a one year limit of an extra 12 hours.

A Motion was made at 10:40 a.m. to close the meeting for licensing hearings. The Motion passed unanimously.

LICENSE HEARINGS: CLOSED TO PUBLIC

10:44 Reed R. Smith – Disciplinary Hearing
Division Witness: Kurtis Hughes, Investigator

Those in attendance for this hearing were:
Ken Wamsley Elizabeth Beazley
Dave Mecham Van Kagie
Jim Cross Craig Livingston
Jim Bolton Chuck Smalley
Kurtis Hughes Carlos Alamilla

1:00 Khammone Turpin – Disciplinary Hearing
Ms. Turpin has signed a Stipulation with the Division and her hearing has been canceled. The Commission will review the proposed Stipulation.

A Motion was made to go into Executive Session from 12:35 p.m. to 2:00 p.m. The Motion was passed unanimously.

2:05 Peggy Jacobson VanDam – Application to Renew License
Vonna Warr

A Motion was made to go into Executive Session from 2:48 p.m. to 3:00 p.m. The Motion was passed unanimously.

3:06 Jane Reiser – Application to Renew License

A Motion was made to go into Executive Session from 3:56 p.m. to 4:00 p.m. The Motion was passed unanimously.

4:04 Tyler Atkinson – Application for License
Mallory Lathem

A Motion was made to go into an Executive Session from 4:53 p.m. to 5:41 p.m. The Motion was passed unanimously.

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

Results of Stipulations:

Khammone Turpin - Approved
Suanne Hoffman - Approved
Roger W. Reeve - Approved
Jamie G. Adams - Approved
Douglas S. Reynolds - Approved

A Motion was made and accepted to adjourn the meeting at 5:43 p.m. The Motion was passed unanimously.

