

**REAL ESTATE COMMISSION MEETING**

**Heber M. Wells Building**

**Room 2B**

**9:00 a.m.**

**December 17, 2008**

**MINUTES**

**STAFF MEMBERS PRESENT:**

**Mark B. Steinagel, Division Director**  
**Dee Johnson, Enforcement Director**  
**Mark Fagergren, Education/Licensing Director**  
**Traci Gundersen, Assistant Attorney General**  
**Renda Christensen, Board Secretary**

**COMMISSION MEMBERS PRESENT:**

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

**GUESTS:**

<b>Kevin Swenson</b>	<b>Paul Naylor</b>
<b>Ron Duyker</b>	<b>Tammy Lund</b>
<b>Mike Welker</b>	<b>Lance Miller</b>

The December 17, 2008 meeting of the Utah Real Estate Commission began at 9:05 a.m. with Chair Sampson conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

**Approval of Minutes**

The Minutes from the November 19, 2008 meeting need a correction of the time on the last page. The times mentioned are 1:28 p.m. to 1:42 p.m., and it should read 10:28 a.m. to 10:42 a.m. With this correction the Minutes were approved as written.

**DIVISION REPORT**

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

Director Steinagel said that Ms. Gundersen received a call from the respondent's attorney asking for a continuation, so the hearing today will be rescheduled for next

**month. Also, the Apartment Association asked if they could be delayed as well. They will probably be scheduled for two months from now.**

**The Commission Calendar for 2009 will get back to the schedule of every other month being a telephone meeting. The meeting in January will be a live meeting. The schedule is always regulated by the number of hearings scheduled, so if need be, there can be a change in a telephone hearing to a live hearing.**

**Director Steinagel mentioned budget cuts in the government. The budgets have already been cut 4% and the legislature is starting with a base budget that is down 15% in the session.**

**The UAR Economic Summit Town Hall meeting was held yesterday. Director Steinagel was there with Commissioner Tugaw-Madsen, Mr. Swenson, and Mr. Naylor. The speakers included Kelly Matthews, Howard Headley, and Jim Woods. They all gave their different perspectives on the economy. Foreclosure rates and unemployment rates will be two items that will affect the turnaround of the economy.**

**Director Steinagel handed out a Summary of Provision for the Division's bill. Changes to the Utah Uniform Land Sales Practice Act, and the Timeshare and Camp Resort Act include increasing the civil penalties the Division may impose, and addressing exemptions under which the Division may take action.**

**Chapter 61-2 would propose changes to modify pre-licensing education and continuing education for real estate licensees. The proposal increases pre-licensing education to 120 hours for a sales agent and continuing education to 18 hours for all real estate licensees.**

**The proposed rule would be clarified, as it is in the mortgage industry, to modify the reporting requirements for a real estate broker or sales agent in the types of criminal convictions they must report.**

**The Real Estate Commission voted earlier this year to require not only out of state brokers applicants, but also in-state broker applicants to complete a criminal background check.**

**A licensee whose license has been expired for between six and twelve months will have the opportunity to reinstate their license if they take additional CE. Currently, they must start over after six months.**

**In addition to the Division's ability to take action under current misrepresentation, dishonesty, and other laws, the Division would like to be able to take action against a licensee who has violated in independent contractor agreement, as evidenced by a final judgment of a court. This would add another prohibited conduct under the statute.**

**In some instances, the Real Estate Commission would like to suspend some of its fines if a disciplined licensee will pay court-ordered restitution to a victim.**

**The Division would like to make a change on the Real Estate Recovery Fund Act to increase the caps on recovery from the fund to \$15,000 to match the mortgage recovery fund. This will reflect inflation and possibly help more victims.**

### **INVESTIGATIONS REPORT – Dee Johnson**

There are two Stipulations being presented to the Commission today. The respondents have been given the chance to appear today to answer any questions the Commission might have and have declined to attend.

#### **Review of Stipulations:**

**V. Wayne Smith**

**Phillip L. Hallman**

Mr. Johnson reported in the November the Division received 35 complaints; screened 13 complaints; opened 8 cases; closed 17 cases; and the balance is 142 open cases. This was a good month for the investigators, and they did an excellent job in the number of cases closed.

### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren complimented Director Steinagel on the Division bill and his efforts to get these changes made.

The statistics show there have been a drop of 1,543 in licensees. Out of those, 581 have become inactive. The actual number of licensees that have been lost since the first of the year is 962, or 90 agents per month, that are leaving the industry and not returning.

Mr. Fagergren said the statutory proposal dealing with increasing pre-license continuing education to 18 hours was attempted about five years ago. Some legislators were against the proposal and the change didn't happen.

The broker's exam and curriculum are moving forward in getting things started by the first of the year. There are four schools that will be teaching the new curriculum.

Mr. Fagergren said the Division has been seeing problems with some of the schools regarding education waivers. The rules specify that students are to get the waivers before they enroll in the schools. From time to time, some schools have enrolled a person; they have completed their education, and are calling the Division asking when the waiver will be approved because they have completed the course. The Division hasn't even decided how many hours of education the applicant needs. Also, some of waivers have been unsigned by the school staff, and/or are undated. The education is valid for one year from its completion, and the waivers that are unsigned have no expiration.

### **COMMISSION AND INDUSTRY ISSUES – Commissioner Walker**

Commissioner Walker discussed an issue regarding UDOT exemptions. UDOT has an exemption for their employees when they are buying or selling properties for them. Commissioner Walker said an example is the engineering firm from Florida who has contracted with UDOT to negotiate and purchase real estate. This person is with the engineering firm that contracts with UDOT to negotiate rights-of-way, and is licensed in Florida. Last year, "or an authorized agent working under the oversight of UDOT" was added to another bill (not the Division's bill) so they can contract with out-of-state people.

**Chair Sampson asked if the Commission and Division wanted to review the state-approved forms listed on the Division's website. Some of these forms are out-dated and not used anymore. It was decided to add this topic to the next live Commission meeting.**

**CLOSED TO PUBLIC**

**A motion was made to go into Executive Session from 10:37 a.m. to 11:05 a.m.**

**OPEN TO PUBLIC**

**11:05 Training by Attorney General on Administrative/Hearing Procedures –**

**Blaine Ferguson, Assistant Attorney General**

**OPEN TO PUBLIC**

**Results of Executive Session Stipulations:**

**V. Wayne Smith – Approved**

**Phillip L. Hallman – Approved**

**A motion was made and accepted to adjourn the meeting at 1:55 p.m.**