

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

March 18, 2009

### **MINUTES**

#### DIVISION STAFF 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  
Julie Price, Assistant Board Secretary  
Carlos Alamilla, Investigator  
Chuck Smalley, Investigator  
Tiffeni Wall, Real Estate Education Coordinator  
Jennica Robison, Division Staff  
Jill Childs, Division Staff

#### COMMISSION MEMBERS PRESENT:

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

#### GUESTS:

Kevin Swenson  
Tammy Lund  
Curtis Bullock  
Linda Leavitt  
Irene Kennedy

The March 18, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Sampson conducting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The Minutes from the February 18, 2009 meeting were approved as written.

### **DIVISION REPORTS**

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

Director Steinagel said that Ms. Christensen was back from a medical leave and they were pleased to have her back.

Director Steinagel said the legislative session ended last week. The average state cut was approximately 9%. The Title and Escrow Minimum Charge Rule has been eliminated.

Director Steinagel made a recommendation to the prelicensing and continuing education rules. After meeting with staff, the proposed transition time for both rules would become effective January 1, 2010. This would allow applicants to complete the 120 hours of prelicense education that complies with the course content outline adopted by the Commission and Division. An applicant for licensure may submit 90 hours of prelicense education if the applicant began the prelicense education program prior to January 1, 2010, and the applicant submitted the completed education prior to December 31, 2010.

Beginning January 1, 2010, an applicant for renewal shall complete 18 hours of continuing education in accordance with R162-9, Continuing Education.

After discussion with the Commission, it was suggested that the hours for a 90-hour applicant must be completed by March 31, 2010. A motion was made to change the date from December 31, 2009 to March 31, 2010. The motion was passed unanimously.

A motion was made and passed unanimously to accept the rule on pre-licensing education.

Director Steinagel discussed the raising of continuing education hours to 18 hours and when it would take effect. He suggested the Division have at least three newsletters announcing the change, and have the effective date be January 1, 2010. A motion was made and passed unanimously to accept the rule on continuing education.

#### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of February the Division received 39 complaints; screened 36 complaints; opened 7 cases; closed 13 cases; with the balance of 116 total cases.

Chair Sampson said Utah had dropped out of top ten on the MARI report. Director Steinagel said there have been several media reports on this issue. He believes that the acts of the Division and Commission before he got here really made a positive difference. Passing and organizing the Mortgage Fraud Task Force has been a huge help. Passing the Mortgage Fraud Act, the public service announcements, the increased enforcement actions were all a big help.

Mr. Johnson said that MARI looks at what the state has done to improve their situation. They have given the Division positive response that most steps we have taken from the legislative standpoint, enforcement standpoint, and the criminal

prosecution standpoint all seem to be paying off. Mr. Johnson said this report was for the year 2008 and Director Steinagel needs to be thanked for his help.

The Division is receiving numerous complaints, some of which we are seeing for the first time. Short sale experts, foreclosure rescue schemes, and loan modifications are some of the new complaints. Anyone participating in these would need to be licensed with the Division.

Mr. Johnson said the news has done stories on the abandonment of records, and it has pretty much been on the mortgage side. However, the Division has had a couple of cases on the real estate side. One of the stipulations you will see today deals with this topic.

There are five stipulations being presented to the Commission. The respondents were given the chance to appear to answer any questions the Commission might have and declined to attend.

Review of Stipulation:

Bryce Jones  
Sayra L. Underhill  
Amber Eves  
Hedy Calabrese  
Shawn Kennedy

Mr. Johnson wanted to compliment our Enforcement staff and their hard work. The Division newsletters which used to be mostly information and a few sanctions now are half sanctions.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren wanted to give his thanks and appreciation to the Enforcement side for their good work for the reduction on the MARI list. It took a lot of work on their part and we congratulate them for their hard work.

The statistics show there are a little less than 1,500 in licensee reduction over the last eleven months if you factor in inactivations.

Mr. Fagergren wanted to thank the Commission for their consideration in Director Steinagel's two proposals. They were reasoned in this respect: the rule dealing with prelicense education really is attempting to give educators time to get ready for a new curriculum; and the other change is CE and the educators are anxious to increase hours to 18 hours. However, allowing time for licensees to receive the additional six hours of CE is a sound idea.

Mr. Fagergren said there are a number of issues with education that needs to be

addressed. First, should the core course remain the same topics at six hours? Should it increase it to 9 hours (half of the requirement)? Should we do away with the core course? The new agent course is twelve hours and that satisfied the entire requirement. Are you satisfied with that twelve hours and have the licensee taking an additional six hours, or should this be increased to the entire 18 hours?

Continuing Education providers have a two-year course approval, and they can teach it as often as they want for two years. Some providers have courses that just teach the course at an event even though the course is valid for two years. There is a problem with this provider teaching the same course the following year in that if the same people attend the second year they can't get credit for taking the same course twice. These licensees are being told in cases such as this that they need to take more CE. To prevent this from happening, providers have requested that perhaps they can obtain a course for one year to prevent the type of situation.

Mr. Fagergren said with the increase in hours the Division is receiving applications for courses that stretch the limit on topics. He asked the Commission for some feedback on what type of courses they would like to see. Director Steinagel said they would get back with Mr. Fagergren on ideas and see what other states are doing. Vice Chair Hancock suggested that the Division continue to present topics to help cut down on the review time the Commission must spend on the issue.

Commissioner Walker said he recently had a problem with a staff member of his trying to find a course on trust accounts. The Division is charged with overseeing trust accounts and making sure they are done properly. After several calls to schools, they found a trust account course that was included in their broker class. Commissioner Walker is suggesting the Division offer the course and suggested that perhaps the Division make an outline of what needs to be taught.

#### COMMISSION AND INDUSTRY ISSUES – Sam Sampson

Commissioner Ashton said he will not be available at the next Commission meeting in April. He wanted to make sure there would be a full quorum.

Commissioner Tugaw-Madsen asked if the Apartment Association has rescheduled time before the Commission. Director Steinagel said they have not at this time. Mr. Johnson said that when the Division receives complaints about unlicensed activity it is always investigated.

A Motion was made and accepted at 10:16 a.m. to close the meeting for licensing hearing.

#### **LICENSE HEARINGS: CLOSED TO PUBLIC**

10:30 Tigh Gunderson – Application for Renewal  
Mr. Gunderson sent the Division an e-mail stating he would not be at the hearing today and did not want to reschedule.

A motion was made and accepted to go into Executive Session from 10:43 a.m. to 10:50 a.m.

10:50            John Andrew Armstrong – Appeal of Order

A motion was made and accepted to go into Executive Session from 11:36 a.m. to 12:00 p.m.

1:27            Douglas Bates – Continuation of Disciplinary Hearing

Those in attendance:

Director Mark Steinagel

Dee Johnson

Chuck Smalley

Commissioner Ashton

Chair Sampson

Commissioner Walker

Steve Eklund, ALJ

Justin D. Heideman, Attorney

Mark Fagergren

Traci Gundersen

Van Kagie

Commissioner Tugaw-Madsen

Vice Chair Hancock

Julie Price

Kelly Fine-Jensen, Court Reporter

Justin R. Elswick, Attorney

A motion was made and accepted to go into Executive Session from 2:35 p.m. to 2:49 p.m.

#### RESULTS OF EXECUTIVE SESSION

##### Results of Stipulations:

Bryce Jones - Approved

Sayra L. Underhill - Approved

Amber Eves - Approved

Hedy Calabrese - Approved

Shawn Kennedy - Approved

A Motion was made and accepted to adjourn the meeting at 2:55 p.m. The Motion was passed unanimously.