

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

8:30 a.m.

June 17, 2009

MINUTES

DIVISION STAFF PRESENT:

Thad Levar, Acting Division Director
Dee Johnson, Enforcement Director
Traci Gundersen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Linda Leavitt	David Bornemeier
Irene Kennedy	Mark VanWagoner
Paul Naylor	Dave Showalter
Michael Welker	Pat Showalter
Kevin Swenson	

The June 17, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Sampson conducting.

Chair Sampson introduced Acting Director Levar to the Commission. Mr. Levar is the Deputy Director for the Department of Commerce and he will be acting as the Division Director for the Division of Real Estate until a new Director has been chosen.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The Minutes from the May 21, 2009 meeting were approved as written.

The Commission has decided to postpone the elections of new officers until the new Commissioner is appointed. A motion was made, seconded, and approved unanimously to that effect.

DIVISION REPORTS

DIRECTOR'S REPORT – Dee Johnson

Mr. Johnson said last month there was discussion on draft rule R162-4-4, Written Instructions for Commission Distribution by Title Insurance Agent. There were two items raised. Item (e) was worded in a somewhat confusing way, so this draft today will show the re-wording. The new subsection (e) reads: "A provision that indicates that the written instructions are an assignment to the associate broker or sales agent by the principal broker of a portion of the consideration due to the principal broker." Mr. Johnson asked if this subsection helped to clarify the confusion on the previous draft.

This rule is meant to supplement to statute 61-2-10-1(a)(4), which states the principal broker directly delivers the payment instrument to the sales associate. After much discussion, a motion was made to delete subsection (e). The motion was seconded and unanimously passed.

A second motion was made to approve the rest of the rule. The motion seconded and passed unanimously.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said there were no Stipulations this month for the Commission to review.

Mr. Johnson reported in the month of May the Division received 23 complaints; screened 22 complaints; opened 5 cases; closed 8 cases; leaving the number of open cases at 118. He said there has been significant progress on all three industries (appraisers, mortgage, and real estate) over the numbers from last year and complimented the investigators for their hard work.

EDUCATION AND LICENSING REPORT – Tiffeni Wall

Ms. Wall said Mr. Fagergren is attending a REEA convention and she will be giving his report.

Ms. Wall discussed the proposed education rules. The Education Committee members decided that out of the 18 hours of CE there will be 9 core hours. A few new topics were added: other industry used forms or contracts, environmental hazards, short sales or bank owned property sales, and/or Administrative Rules. The decision was to keep the new agent course at 12 hours and give the new agents 6 hours of electives.

The 30 hours of pre-license education has not been set yet. There will be another meeting on June 25th. Vice Chair Hancock gave an overview of the meeting. He said there are five items that the Commission should take action on, if they are comfortable with them.

Item 1 was the change in the CE requirement from 12 to 18 hours. The Committee recommended the change in CE hours to 9 hours of core and the remaining 9 hours

be electives. A motion was made to approve this change, seconded, and unanimously approved.

Item 2 is about core topics being expanded. This will help licensees who specialize in special areas such as property management, commercial sales, etc. A portion of this item is about expanding core topics to include other industry used forms or contracts, environmental hazards, short sales or bank owned property sales, and/or Administrative Rules. Commissioner Walker stated that property management is a separate license and should be included in the wording for core topics.

After much discussion, a motion was made to modify 9.2.1 to include "property management" after "environmental hazards" to the list of core topics; strike "environmental hazards" in 9.2.2.3; and strike "property management, leasing agreements and management contracts" from 9.2.2.4. The motion was seconded and passed unanimously.

Commissioner Walker suggested in 9.2.1.1 the references to "subsequent" and "attending" licensees be stricken. It can not be required to have someone attend a course before they can use forms and/or contracts. A motion was made to remove "subsequent" in both places, and also remove "attending" in both places. The motion was seconded and passed unanimously.

Item 3, in 9.2.2.1, Commissioner Tugaw-Madsen asked that the topic of broker price opinions be removed until the meetings with the Appraiser Board be completed. She said if "broker price opinions" were changed to "market analysis" it would be more appropriate at this time. A motion was made to change the term "broker price opinions" to "market analysis". The motion was seconded and passed unanimously.

Commissioner Walker mentioned that by statute the Commission decided the change in CE hours will take place on January 1, 2010. The changes in the rule as to what can be included as core topics can take place earlier. Acting Director Levar said if this rule is filed immediately it will become effective in August.

Vice Chair Hancock continued on with the changes to 9.2.2.7 and 9.2.3.1. The section on using business calculators was removed in this proposed rule. A motion was made to change the wording in the first sentence of 9.2.2.7 to read, "Using the computer, the Internet, and business calculators, and other technology courses that focus real estate concepts, principals and/or industry practices or procedures may be approved." The motion was seconded and passed unanimously.

Section 9.2.3.1, was discussed and a motion was made, seconded, and unanimously approved.

Item 4, R162-9-3, (Revised) Competency Based Continuing Education Approval, was discussed and it was decided to not take any action at this time. This matter

can be readdressed at a future time.

Item 5, there was discussion on R162-3-6.2.1.1 and the hours for the new agent course. The proposed change states that those licensees who renew their licenses before 1/1/10 will satisfy their CE requirement by taking the 12-hour New Sales Agent Course. Licensees renewing their licenses after 1/1/10 will need to complete the New Sales Agent Course plus an additional 6 hours of electives to meet the new 18-hour requirement. The motion was made to approve the proposed changes to 3.6.1.1, seconded, and passed unanimously.

Vice Chair Hancock said the Education Committee also was asked to address the additional 30 hours, and the Committee isn't done with their discussion on that topic. There are 13 topics that currently constitute the basic education on the 90-hour format. Of the 13 topics, the Committee decided that six of the topics needed more emphasis. Their proposal (which has not been finalized) would be to increase the number of hours by 6 for agency, contracts by 8 hours, settlement statements by 2 hours, Utah law by 8 hours, pricing and listings by 3 hours, and Federal law by 3 hours. The other 7 hours would remain the same. A good deal of these additional hours would be used for practical applications and discussions. The Committee is not ready for a recommendation yet. At the next meeting the Committee will be prepared for specific recommendations.

Commissioner Ashton wanted to thank Vice Chair Hancock and the rest of the Committee for their hard work. Their work is very much appreciated.

Chair Sampson asked Ms. Christensen to add Commission and Industry Issues to the agenda for discussion next month. Commissioner Tugaw-Madsen would like discussion on the property management rule, R162-4-3. Also, R162-6.1.9.1, Token Gifts, should be added again for discussion.

A Motion was made and accepted at 10:02 a.m. to close the meeting for licensing hearing.

LICENSE HEARINGS: CLOSED TO PUBLIC

10:14 David Showalter – Disciplinary Hearing
Patricia Showalter, Wife

Executive Session: 10:27 a.m. – 10:39 a.m.

Witnesses for the Division:

Dave Mecham

Mark VanWagoner

Mark Kerr – by phone

A motion was made and accepted to go into Executive Session from 1:16 p.m. to 1:36 p.m.

1:52 Vincent Weissinger – Disciplinary Hearing

A motion was made and accepted to go into Executive Session from 3:20 p.m. to 3:55 p.m.

RESULTS OF EXECUTIVE SESSION

The Disciplinary Hearing for David Showalter will be continued on Tuesday, July 14th, in Room 210 at 2:00 p.m.

A Motion was made and accepted to adjourn the meeting at 4:13 p.m. The Motion was passed unanimously.