

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
September 15, 2010

MINUTES

DIVISION STAFF PRESENT:

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Jill Childs, Assistant Board Secretary

COMMISSION MEMBERS PRESENT:

Gary R. Hancock, Chair
Kay R. Ashton, Vice Chair
Stefanie Tugaw-Madsen, Commissioner
H. Thayne Houston, Commissioner

GUESTS:

Tammy Lund	Kevin Swenson
Robert Ponte	Jack Marinello
Paul Naylor	David Bornemeier

The September 15, 2010 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Hancock conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Commissioner Walker will be excused from the meeting to day. He is attending an ARELLO convention.

The Oath of Office was administered to Chair Hancock by Administrative Law Judge Masuda Medcalf. Chair Hancock has been reappointed for a second four-year term.

Elections for Officers will be postponed until the October meeting, because Commissioner Walker is out of town.

Chair Hancock offered his and the Commission's thanks to Ms. Gundersen. She is leaving the Attorney General's office to become the new Director of Consumer Protection. She will be missed.

Approval of Minutes

Motion: The Minutes from August 18, 2010 are approved as written. Vote: Chair Hancock, Yes; Vice Chair Ashton, Yes; Commissioner Tugaw-Madsen, Yes; Commissioner Houston, Yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said that she and Ms. Jonsson have been working hard the past few weeks to draft the Division's bill for fiscal year 2011 for the upcoming Legislative session. Real Estate will only have two places changed. One issue has been the appeal of whether an order on a licensing decision made by Ms. Jonsson, is reviewed by the Commission, or whether the appeal is a de novo matter before the Commission. The statute will be changed to read that an appeal from the order will be reviewed by the Commission as a de novo review.

A change needs to be made from Representative Wilcox's bill from last year regarding receipt of an up-front payment from the consumer for loan modifications or foreclosure rescue services, and when it has to be refunded. The licensee must have a written agreement with the individual that spells out the services that the licensee will provide. If foreclosure occurs within a year of signing the contract for services, then the licensee who has received the up-front money has to give it back to the consumer. There have been some concerns about that from both sides of the fence. The mortgage industry is concerned that the borrower can still receive a refund of an up-front fee after foreclosure even though the borrower has defaulted or failed to take necessary action for the success of the foreclosure rescue. The statute doesn't contemplate that. It basically says, no matter what the borrower does, if at the end of that one-year period a foreclosure results, then the funds that the foreclosure rescue person has received must be returned to the consumer. This would also include short sales. We hope to re-word the statute so that a licensee who performs on the contract with the homeowner would not be required to refund fees if foreclosure happened as a result of the homeowner's default on the modified loan terms.

Director Sabey wanted to make sure that everyone knew about the Division's Instructor Development Workshop that is being held on October 18-19, 2010 at the Park City Marriott. The deadline to register is October 1, 2010. There is a form on-line that can be copied and submitted to the Division. Speakers will be Joe Wrona and Dave Johnson, who are both attorneys. Mr. Johnson was the past director of the Division of Real Estate. There will also be two agents from the FBI to talk about fraud scams and some of the trends they are seeing.

The issue of real estate forms was brought up again, and whether to spend the time and money to modernize them, or to do away with them on the Division's website. Chair Hancock said that in a conversation with Commissioner Walker, he specifically asked to table the topic until he returns next month. Ms. Christensen will add this topic to the next agenda.

Director Sabey announced that the Division of Real Estate will begin having mandatory on-line renewals as of January 1, 2011. There a number of reasons for this: the cost savings; licensing models are going toward on-line renewals; and this process has been available at the Division for the past several years.

There was an article in the Salt Lake Tribune about how Utah banks are doing. There is a decline in delinquent loans, and Utah bank conditions are no longer deteriorating. Another article reported the CEO of Zions Bank said that commercial real estate has stabilized and is moving in a positive direction.

MoodysBusinessWeek.com reported on August 3, 2010 that, nationally, home prices across the board should be increasing 7.2% by 2014. There are also signs of stabilization in the housing industry. Moody's also predicts there will be a shortage of homes for people in Utah by mid-2012.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said the Division is sorry to lose Ms. Gundersen. We are excited for her, as she begins a new job and she has been greatly appreciated.

Mr. Johnson reported in the month of August the Division received 62 complaints; screened 23 complaints; opened 49 cases; closed 12 cases; leaving the total real estate cases at 105. We have received a higher number of complaints, and we have tried to raise the bar with complaints and make some phone calls and try to resolve the issues over the phone. There is a higher number of more serious complaints.

There are two stipulations to review today:

Alisa Methner
Galen VanSickel

The stipulation for Mr. VanSickel is a resolution of a hearing that would have transpired today.

Ms. Methner was offered the opportunity to appear today, but declined.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren is out of town this week and has no report.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson discussed the various changes that the Division has made in cleaning up language and modernizing sections of our rules. Changes have been made to the sections dealing with on-line renewals, on-line change cards, and also the principal broker's duties with regard to making sure parties to a closing transaction gets copies of signed documents.

R162-2f-204, License renewal, has new language that renewals have to be done on the on-line RELMS system in order to renew without incurring a late fee. If a licensee has to answer "Yes" to a disclosure question, he or she must submit a paper renewal. It also establishes the deadline of January 1, 2011 for all renewals to be done on-line.

R162-2f-207(6)(d) states that, with regard to a change that requires submission of a paper form or document, there will be an extension of the deadline if it falls on a day when the Division is closed for business. In that case, the deadline shall be extended to the next business day.

R162-2f-401 now states that a principal broker will be required to review the settlement statement for content and accuracy, and ensure that the principals in the transactions receive copies of all signed documents.

The Commission requested an amendment to state that a principal broker may delegate someone to review the settlement statement (associate broker, branch broker) but has the ultimate responsibility.

A member of the public requested clarification on R162-2f-403(2)(b) as to what it means to manage "no more than six accounts". Ms. Jonsson will provide a revised draft for the October meeting.

Chair Hancock closed this portion of the meeting at 10:06 a.m. for a brief recess before the first hearing.

A motion was made to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 10:15 a.m. until 11:25 a.m.

CLOSED TO PUBLIC

Review of Stipulations

OPEN TO PUBLIC

A motion was made to go back into public session of the meeting. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes.

Chair Hancock read the results of the Stipulations, and both were accepted. Director Sabey concurs on both.

OPEN TO PUBLIC

LICENSE HEARINGS

11:38 Adam Allred – Application for License
Joseph F. Orifici, Attorney

A motion was made to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 12:19 p.m. until 12:30 p.m.

A motion was made to go back into public session of the meeting, and it was proposed that the Commission take a break for lunch. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The lunch break was from 12:30 p.m. until 3:30 p.m.

OPEN TO PUBLIC

3:30 Kenny Hardy – Application for Renewal
Mr. Hardy requested a telephone hearing.

A motion was made to go into Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 5:03 p.m. until 5:21 p.m.

CLOSED TO PUBLIC

Discussion of hearings

OPEN TO PUBLIC

A motion was made to go back into public session of the meeting. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes.

A motion was made to adjourn the meeting. Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was adjourned at 5:21 p.m.