

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

October 20, 2010

MINUTES

DIVISION STAFF PRESENT:

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Ron Kunzler, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Jill Childs, Assistant Board Secretary
Kathy Archuleta, Division Staff

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Brian Davis
Irene Kennedy
Paul Naylor
D. Gary Back
Curtis Bullock

The October 20, 2010 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Hancock conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Election of Officers: Commissioner Ashton was elected as Chair, and Commissioner Tugaw-Madsen was elected as Vice Chair for the upcoming year.

Approval of Minutes

The Minutes from the September 15, 2010 meeting were reviewed and found to need corrections. On page 2 the word "changes" needs to be replaced with "changed." On page 4 the words "hire" should be changed to "delegate", and "responsible" to "responsibility."

A Motion was made to approve the Minutes from the September 15, 2010 meeting as amended. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. Commissioner Walker was

excused from voting because he was absent for the September 15, 2010 meeting. Motion passes.

A Motion was made to approve the Minutes from the September 16, 2010 meeting as written. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. Motion passes. Commissioner Walker was excused from voting because he was absent for the September 16, 2010 meeting.

Commissioner Tugaw-Madsen announced she and her husband are expecting their first child in March. The Commission and Division congratulated them and wished them well.

Review of 2011 Commission Calendar: There were no changes made, and the Commission has approved of the dates as listed.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey wanted to announce to everyone that Commissioner Walker has been elected District Four Vice President of ARELLO. District Four includes: Utah, Idaho, Wyoming, Montana, Alaska, Nevada, California, Hawaii, and Puerto Rico. The Division wants to congratulate him on his new appointment.

Director Sabey said the FDIC issued its interim file rule as a result of the language in the Wall Street Reform Act. The interim final rule sunsets the HVCC, so HVCC is no longer applicable. The interim final rule goes into specific detail, and is approximately 132 pages dealing with appraisal independence, and its applicability in the mortgage industry. Interested parties can comment by 60 days after publication in the Federal Register.

The rule goes into detailed explanation of determining valuation and states that anyone, appraiser or not, who is determining valuation is subject to the interim final rule. The rule applies to any consumer transaction that is open or closed, secured by a principal dwelling, and specifically states that it does not include loan modifications.

FannieMae has issued a notice of concern for all of its servicers. It is are very concerned that servicers are delaying foreclosures. FannieMae expects its servicers to abide by all of the guidelines and rules that it has set forth, and also stated they will penalize any servicers who are not in compliance. The longer a foreclosure is delayed, the greater the losses are to FannieMae investors. Director Sabey wanted to inform the Real Estate Commission about this because there has been a lot of concern lately about foreclosures slowing down, and then speeding back up again.

Director Sabey attended Representative Trisha Beck's town hall meeting last night in which Representative Beck discussed the bill that she is opening to allow

foreclosure mediation. This will be foreclosure mediation between a borrower and the servicer or bank. Director Sabey doesn't believe the UAR has a position on this yet, and Mr. Bullock confirmed that he isn't familiar with the bill. Representative Beck is considering patterning the bill after the law that was put in place in Nevada last year. The Nevada law is administered through the Nevada Supreme Court and through the Court system, and the idea is the borrower and servicer would sit down and try to reach a decision by using the federal programs currently in place. Representative Beck is asking for realtor input to better develop the bill.

Director Sabey said the issue of Division approved forms will be discussed in Ms. Jonsson's report, and Mr. Fagergren will discuss the topic of change cards.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said Commissioner Ashton and Commissioner Houston attended the IDW, and that it was a very informative meeting. Most of the topics dealt with legal matters and fraud, Commissioner Houston mentioned the Division's presentation on the second day was excellent, and would be put to good use on the next Caravan.

Mr. Johnson reported in September the Division received 65 complaints; screened 7 complaints; opened 49 cases; closed 11 cases; leaving the total number of real estate cases at 143. The investigative staff is working staff hard to control the numbers, but Mr. Johnson said he expects to see the numbers increase.

There are four stipulations to review today:

Randall C. Wall
Stanley H. Booth
Aaron Wagner
Christian C. Jensen

Each of the respondents had the opportunity to appear today, and all have chosen not to appear.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren wanted to also thank Commissioners Houston and Ashton for attending the IDW. He said Ms. Wall and Ms. Buchi did an excellent job in setting everything up for the workshop.

Mr. Fagergren introduced Kathy Archuleta to the Commission. She will be a new real estate licensing person for the Division. Ms. Archuleta has a background in the insurance field, and currently holds a license with the Department of Insurance.

The Division's newsletter went out at the end of September. The main topic is about mandatory on-line renewals taking effect on January 1, 2011. The Division will have access to a computer to help any licensee either renew or make a status change on-line.

The electronic version of the newsletter will have the option of printing off a PDF copy of an actual order issued to an individual.

At the end of next year the contract with our testing contractor will conclude. We have had this contract in place for five or six years, and are always looking to negotiate good terms and less expensive testing. We are required to open this bid up for an RFP, evaluate cost and services, and make the decision after reviewing all applications.

Mr. Fagergren asked the Commission and those attending if they had any suggestions or recommendations that might be added to the RFP. Commissioner Houston said the only testing center in the southern part of the state is either to come to Salt Lake City or Las Vegas, Nevada. He is wondering if there could be anything closer for them. Mr. Fagergren said this is something they will consider in preparing the bid.

Commissioner Tugaw-Madsen asked how often the test questions are updated to keep current with the changes in rules and statutes. Mr. Fagergren said it can be specified in the contract if we want the testing company to come out annually, or more frequently. In our current contract all of these exams are owned by the provider. If we change providers, we will be in the process of writing new examinations. In November we will be getting new real estate broker and sales exams that have had the process completed. Timeliness of test score downloads is also an issue that will be reviewed.

There is a stipulation for review today:
John D. Richards

The respondent had the opportunity to appear today, and has chosen not to appear.

Mr. Fagergren said the website has been revamped to make it more consumer friendly. Currently, any change that happens electronically through RELMS will be updated in the system by the following day by 11:00 a.m. If someone decides to print out a paper change card and fax it to the Division, it will take longer. Mr. Fagergren is in contact with our IT people to provide confirmation when a change has take when it is entered on-line, by perhaps sending an automatic e-mail response to the sender. Commissioner Houston said it is convenient to have a paper copy of any change in the file to show where an agent is at any time. He suggested perhaps a print button be added to print the screen and show the changes.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson discussed the proposed rule changes with the Commission and Division. Some lengthy sections need to be re-numbered to follow the requirements set down by Administration of the Department of Commerce. The

term branch "manager" needs to be changed to branch "broker," and also the words "transaction" and "closing" need to be changed to "settlement." A motion was made to approve the draft rules with these changes noted and the re-numbering. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Walker, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. Motion carries.

The Division received a letter and formal proposal to make an amendment to the rules laying out some minimum standards for licensees to follow in making reasonable efforts to verify square foot measurements as part of the listing. Director Sabey suggested the use of a square foot disclosure form used in Colorado, showing the methodology of how the agent came up with the square footage. This form gives the licensee the ability to do the measurements themselves, or use the methodology by ASI, FHA, etc. The mention of the square footage would be required to be in any advertisements where the square footage is referenced. After some discussion on the topic, it was suggested that Ms. Jonsson and Mr. Bullock meet to cover this topic in more detail and present their findings at the meeting next month.

Chair Hancock closed this portion of the meeting at 10:31 a.m. for a brief recess before the first hearing.

OPEN TO PUBLIC

LICENSE HEARINGS

10:39 Bret R. Cartwright
 Stephen W. Owens, Attorney

Darren Jones, Division's Witness

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 Walker, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 12:56 p.m. until 2:06 p.m.

2:09 Continuation of Mr. Jones testimony
 Carlos Alamilla, Division's Witness

 Eric Garrison, Respondent's Witness
 Marvin Cartwright, Respondent's Witness
 Bret Cartwright

A brief break was taken from 4:07 to 4:15 p.m.

4:15 Continuation of Bret Cartwright testimony

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 Walker, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 7:00 p.m. until 7:27 p.m.

CLOSED TO PUBLIC

Discussion of hearings
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 Walker, yes; Commissioner Houston, yes.

Results of Stipulations:

Randall C. Wall - Approved

Stanley H. Booth - Approved

Aaron Wagner - Approved

Christian C. Jensen - Approved

John D. Richards - Approved

A motion was made to adjourn the meeting. Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Houston, yes. The motion passed and the meeting was adjourned at 7:27 p.m.