

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

January 18, 2012

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Kent Nelson, Chief Investigator
Dee Johnson, Assistant Chief Investigator
Jennie Jonsson, Hearing Officer
Xanna Hardman, Assistant Attorney General
Judith Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Dave Mecham, Investigator
Van Kagie, Investigator

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Shane Norris	Ron Duyker
Sara Saylor	Tammy Lund
Perri Babalis	Mike Ballif
Rob Aubrey	

The January 18, 2012 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Madsen conducting.

Commissioner Walker was excused from the meeting this month.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes from December 21, 2011 were approved as written. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. The motion passes.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart said that Mr. Fagergren was excused for this meeting, and that Ms. Wall will be giving the education and licensing report.

The legislative session starts this coming Monday, January 23, 2012. Since our last Commission meeting, we have met with Representative Froerer several times. We have also met about timeshare legislation, which we discussed last month. It does look like the Division will probably be adding a few small items about timeshare in its bill, but nothing big because we don't have enough time to come to agreements. We have agreed over the next year to work with the industry on some major timeshare legislation changes.

The Division is working with Mike Ostermiller and Paul Smith on some property management issues. They have some concerns about trust accounts. There is a difference between a trust account in real estate, and a trust account in property management. They are asking for clear guidance on what property managers can do with their trust accounts. We have agreed to pass legislation that basically gives the Division and Commission authority to promulgate rules. The major changes will happen through rules at a later date.

The Division bill does not have a number yet. Hopefully, we should have one soon, after finalizing everything with timeshare. Director Stewart will let the Commission know when the bill receives a number so they can track it through the session.

The Division has finalized contracts with Comcast, KUTV Channel 2, KTVX Channel 4, and KSTU Channel 13 to run a Division Public Service Announcements ("PSA") for three months. Broadcasts will begin the end of January and run through the end of April. The PSAs focus on telling people who are going to buy or sell real estate to make sure they are using a licensed professional. The PSAs will also be made available on the Division's website.

The Division will be under construction in the week of March 12th. We are getting new carpet and new cubicles. The Division will try our best to be available to the public and industry members, but we ask that people are patient with us during this time. We are going to have some conference rooms set up with computers and phones so that we will still be able to be contacted.

ENFORCEMENT REPORT – Kent Nelson

Mr. Nelson said that the trend over the last three or four months shows we are catching up with the backlog of cases. Over the next few months when we are caught up, we will be at equilibrium where cases coming in will be closed more quickly. Our investigators are working hard to keep up with that.

Mr. Nelson reported in December the Division received 18 complaints; opened 16 cases; closed 32 cases; leaving the total number of open real estate cases at 222.

Last summer, Mr. Mecham brought a case before the Commission. Through his

investigations, the Division has revoked the license of Jordan Maddocks. Mr. Maddocks was accused at the time of improperly using his trust account in his property management company. That case has come to fruition with a criminal filing that was done about two weeks ago. Mr. Maddocks has been charged under a statute that talks about a fiduciary responsibility to not take, use, mismanage, or steal funds from the account over which you are a fiduciary. Mr. Maddocks was charged with fraud in connection with that case. He has surrendered and been booked, and negotiations are going on for a plea bargain on that case. It was a good case that will help the industry realize that the Division is serious about licensees ensuring that money in trust accounts is safe and is not used for improper purposes.

From Mr. Mecham's investigation, the trustee of the court determined that about \$130,000 in funds were improperly taken out of Mr. Maddocks's trust account. Because of the efforts by the trustee, the business assets were sold to another company who put up the money to make that account whole. There were no specific victims who lost money. Mr. Nelson hopes this information going out in the Division's newsletter will be a warning that these funds should not be touched.

When the plea bargain is finalized, Mr. Nelson believes that a press release will go out. Director Stewart said the Division and the Attorney General's office talked, and decided to do a press release about the administrative hearing and license revocation after the plea has been entered so that they can hit both at once rather than do two. Mr. Nelson wanted to acknowledge Mr. Mecham's work in that case. It took a long time and he put in a lot of hard work for the Division in getting this case to a good resolution.

Stipulations for Review

Charles A. Ekberg
Jeffrey M. Baich

Each of the respondents was offered the opportunity to appear today, but each has declined.

LICENSING/EDUCATION REPORT - Tiffeni Wall

Mr. Fagergren is excused from the meeting this month. Ms. Wall will be giving the education and licensing report. Ms. Wall said the statistics show that the numbers of licensees has dropped 65 this month.

Ms. Wall said the Division's 2012 Caravan will begin in April and run into May, and there will be about seven or eight locations we are visiting. Commissioner Ashton asked if there will be a meeting in Salt Lake this year. Ms. Wall said that the last time the Division scheduled a meeting in Salt Lake, it had poor attendance, so at this point there is not a Salt Lake meeting planned. The Division will charge \$10.00 penalty fee for no-show attendance. This has helped keep the numbers closer to the reserved numbers, and the Division will continue the fee again this year.

Stipulations for Review

Randy E. Larsen
Jill Stringham
Kollette K. Chambers
Gregory Corliss

Each of the respondents was offered the opportunity to appear today, but each has declined.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said there are no rules out for public comment, and no draft rules for the Commission to review this month. In working on the statute, Representative Froerer has brought up some issues that he would like to see addressed in rule, so we will be bringing that to the Commission in further meetings.

Chair Tugaw-Madsen said she has been in contact with the California Association of Realtors® (“CAR”) regarding lead-based paint, and still has not received the information yet. She will forward the information to all of you and the Attorney General’s office for review, and also some information from the National Association of Realtors on the issue.

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 Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. An Executive Session was held from 9:25 a.m. to 10:10 a.m.

OPEN TO PUBLIC

INFORMAL HEARINGS:

10:30 Chelsea Dixon – Disciplinary Action
Tom McCarty, Father, Principal Broker

11:30 Douglas Delquadro – Application for Renewal

An additional stipulation was presented to the Commission and Division for review: Jason Hawkins. Mr. Hawkins was offered the opportunity to appear today, but has declined.

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 Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. An Executive Session was held from 12:08 p.m. to 1:15 p.m.

- 1:30 Robert Hobbs – Application for Renewal
- 2:40 Jennifer Hood – Application for License
Amanda Hood
Kimberlie Kerswell
- 3:30 Kristen Mortensen – Application for Renewal
Matthew Bowley, Attorney

CLOSED TO PUBLIC

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 Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. An Executive Session was held from 4:49 p.m. to 5:05 p.m.

OPEN TO PUBLIC

Results of All Stipulations

Gregory Corliss - Approved
Charles A. Ekberg - Approved
Randy E. Larsen - Approved
Jill Stringham - Approved
Kollette K. Chambers - Approved
Jeffrey M. Baich – Approved
Jason Hawkins – Approved

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. The meeting adjourned at 5:05 p.m.