

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

November 16, 2011

### **MINUTES**

#### DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director  
Kent Nelson, Chief Investigator  
Jennie Jonsson, Hearing Officer  
Xanna Hardman, Assistant Attorney General  
Renda Christensen, Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator  
Charles Smalley, Investigator  
Van Kagie, Investigator  
Jill Childs, Division Staff  
Kathy Archuleta, Division Staff

#### COMMISSION MEMBERS PRESENT:

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

#### GUESTS:

Tammy Lund	Shane Norris
Mike Ballif	Sara Saylor
Paul Naylor	

The November 16, 2011 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Masden conducting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The minutes from October 19, 2011 were found to need a correction. There was a duplicate word on page 3 that needed to be deleted. With this correction, a motion was then made to approve the amended minutes from the October 19, 2011 meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Ashton, yes. The motion carries.

### **DIVISION REPORTS**

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart said Representative Froerer has agreed to sponsor the Division's bill in the upcoming legislative session. Director Stewart and Ms. Jonsson will be meeting with Mr. Froerer this afternoon to review what the Division is recommending.

In a previous meeting, the Commission asked the Division to provide a list of all unpaid fines. Director Stewart presented this list to the Commission for their review.

The Division received a request from the attorney representing Jordan Maddocks requesting an extension for the \$15,000 civil penalty that he owes the Division. The request is being submitted to the Commission to review in their Executive Session later today.

ENFORCEMENT REPORT – Kent Nelson

Mr. Nelson said in October the Division received 34 complaints; opened 37 cases; closed 49 cases; leaving the total number of real estate cases at 241.

Enforcement Stipulations for Review

Ryan D. Mott  
Bret R. Cartwright  
Troy Reynolds

All of the respondents were offered the opportunity to appear today, but each has declined.

EDUCATION AND LICENSING REPORT – Tiffeni Wall

Mr. Fagergren was on vacation this week and Ms. Wall is covering his report. Ms. Wall said the Division received great feedback on the IDW, and the workshop will be held again in Park City next year.

Education/Licensing Stipulations for Review

Michael J. Harris	Stephen A. Howell
Douglas D. Delquadro	Richard Stevens
Steven M. Perry	Andrew O'Farrell
Vincent Ventura	Alexander Blake

All of the respondents were offered the opportunity to appear today, but each has declined.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said the public comment period has passed for the amendment to R162-2f-202(b). This is the section that deals with the experience requirement for a person applying as a principal broker, and provides a seven year look-back

window for demonstrating the experience requirement having been met if a person is applying for a new license after allowing a principal broker license to expire. No public comments were received, and the amendment can be made effective on November 21, 2011 if the Commission approves it today. A motion was made to approve the amendment to be effective on November 21, 2011. The motion passes.

Lead-Based Paint Disclosure Discussion – Stefanie Tugaw-Madsen

Chair Tugaw-Madsen said the idea here is to either eliminate section C of the state form because of it being outdated as to the way we conduct business, or put in verbiage, for example, that says someone understands that under federal law the seller shall provide the purchaser with a lead hazard information pamphlet, and purchaser an opportunity to conduct a risk assessment and retain a copy for three years from the completion of the sale.

Ms. Hardman read comments from the Attorney General's office on this topic. There is some concern on removing or changing the language of the form. The concern is that the law needs to be changed at a federal level before we can change it at a state level.

It appears that California was able to negotiate some sort of language that was agreed upon by HUD and the EPA, but specifically what was agreed upon and found to be in compliance is unclear. This specific report was dated ten years ago, and the rule still remains in effect. The AG's office is concerned that without having more information as to exactly what happened in California and an opportunity to see if it is still in compliance with the federal rules, the federal rule should still be followed as it is written.

The state-approved form is missing the two logos of HUD and FHA. The NAR® and the UAR should both be contacted for their opinions on any changes on this form. Chair Tugaw-Madsen said she will contact both groups for their comments and opinions. She will also contact the California NAR® to see if she can obtain a copy of the form with any changed wording.

10:15            COMMISSIONER TRAINING – Assistant Attorney General Tony  
                         Patterson

**OPEN TO PUBLIC**

INFORMAL HEARINGS:

11:50            Thomas Luke Morgan – Application for Renewal  
                         Tom Morgan, Father

**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 Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. Motion carries. Executive Session was held from 12:30 p.m. to 1:25 p.m.

**OPEN TO PUBLIC**

Results of All Stipulations

Ryan D. Mott - Approved

Michael J. Harris - Approved

Douglas D. Delquadro - Approved

Steven M. Perry - Approved

Vincent Ventura - Approved

Stephen A. Howell - Approved

Bret R. Cartwright - Approved

Richard Stevens - Rejected

Troy Reynolds - Rejected

Andrew O'Farrell - Approved

Alexander Blake - Approved

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. Motion carries. The meeting was adjourned at 1:27 p.m.