

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
April 15, 2015

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Justin Barney, Hearing Officer
Judith Jensen, Assistant Attorney General
Amber Nielsen, Acting Board Secretary
Van Kagie, Investigator
Mark Schaerrer, Investigator
Kadee Wright, Investigator
John Bickmore, Investigator
Jodie Carter, Division Staff
Jill Kelsch, Division Staff

COMMISSION MEMBERS PRESENT:

Russell K. Booth, Chair
Lerron E. Little, Vice Chair
Calvin R. Musselman, Commissioner
Lori Chapman, Commissioner
*William O. Perry, IV, Commissioner

GUESTS:

Cressie Larson
Susan Aguilar
Tammy Lund
Peter Christensen
Tyler Cisneros

*Commissioner Perry was delayed due to inclement weather and was absent from the first portion of the meeting.

The April 15, 2015 meeting of the Utah Real Estate Commission began at 9:12 a.m. with Chair Booth conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - A motion was made and seconded and approve the minutes from the March 18, 2015 meeting. Vote: Chair Booth, yes; Vice Chair Little, yes;

Commissioner Chapman, yes; Commissioner Musselman, yes. The motion carries.

Chair Booth opened the floor for Public Comment. No public comments were made.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart presented a court case from the Utah Division of Occupational and Professional Licensing which was overturned on appeal. Director Stewart used this case as an example of the necessity for the Commission to be consistent and fair with their decisions. Chair Booth noted having a record of past actions would be beneficial.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported that the enforcement statistics for January, February and March. In January the Division received 13 complaints; opened 8 cases; had 40 cases with the Attorney General's office; closed 9 cases; leaving the total number of cases at 246. In February the Division received 17 complaints; opened 9 cases; had 42 cases with the Attorney General's office; closed 8 cases; leaving the total number of cases at 247. Mr. Nielsen noted there may be a discrepancy with the number of cases with the Attorney General's office in the month of February. In March the Division received 25 complaints; opened 18 cases; had 51 cases with the Attorney General's office; closed 12 cases; leaving the total number of cases at 253.

Mr. Nielsen presented for discussion the somewhat epidemic situation of licensees allowing their licenses to lapse, yet, still practicing while the license is not active. Mr. Nielsen is seeking the Commission's opinion on how enforcement should treat these cases. Mr. Nielsen presented various options and examples of actions that the Division may be able to enforce in these situations. The topic was discussed at length.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren announced that Toni Heldman has retired after 22 years with the State of Utah.

Mr. Fagergren announced the Division Caravan will begin next week.

Mr. Fagergren presented for discussion proposals for the valuation of broker's application for experience. Mr. Fagergren wanted to discuss what Property Management experience would be applicable to the broker's application for experience. The topic was discussed at length. The topic will be added to the agenda for the next two months.

A brief recess was held from 10:17 a.m. to 10:21 a.m.

INFORMAL HEARINGS:

10:21 Tyler Cisneros - Application for Licensure

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Justin Barney

Mr. Barney presented Stipulations to the Commission for review.

Stipulation for Review

Christie L. Wilkes

Truc Le

Jakie Pizana

All licensees were given the opportunity to appear before the Commission today and have chosen not to.

Mr. Barney reported he received an email on the proposed rule amendment to R162-2f-401a. The rule amendment is still in the public comment period. The complete public comments received by the Division will be presented to the Commission when the public comment period is over.

Mr. Barney presented a proposal for a rule change by Mike Ostermiller to allow a portion of a licensee's commission be paid to a 501(c)(3) charitable organization.

Mr. Barney presented for discussion some proposed changes to the Property Management Trust Money Provisions. A motion was made to approve the language as written and publish the changes for public comment. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries.

Mr. Barney brought up HB296, the bill which pertains to anti-discrimination and protection of religious liberties. This will be presented for discussion at the May Commission Meeting.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries.

CLOSED TO PUBLIC

An Executive Session was held from 11:54 a.m. to 12:24 p.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulations:

Christie L. Wilkes - Approved with the concurrence of the Director

Truc Le - Approved with the concurrence of the Director

Jakie Pizana - Approved with the concurrence of the Director

Tyler Cisneros will be notified by mail as to the outcome of his hearing.

A motion was made and seconded to adjourn the meeting. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion passes. The meeting adjourned at 12:24 p.m.