

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
June 15, 2016

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Justin Barney, Hearing Officer
Elizabeth Harris, Assistant Attorney General*
Amber Nielsen, Board Secretary
Jennica Gruver, Real Estate Education Coordinator
Van Kagie, Investigator
Mark Schaerrer, Investigator
Kadee Wright, Investigator
Jill Kelsch, Division Staff
Sarah Nicholson, Division Staff
*Present only for Informal Hearing

COMMISSION MEMBERS PRESENT:

Lerron Little, Vice Chair
Lori Chapman, Commissioner
Calvin R. Musselman, Commissioner

GUESTS:

Tammy Lund	Kreg Wagner
Shane Norris	Dan Naylor
Kevin Swenson	Jennifer Sagers

The June 15, 2016 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Vice Chair Little conduction. Chair Booth and Commissioner Perry are excused from today's meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes as written from the May 18, 2016 meeting of the Commission. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Musselman, yes. The motion was approved.

Vice Chair Little opened the floor to public comment. There was no public comment today.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported the ARELLO Newsletter contained a several items of note. In British Columbia, has taken steps to address concerns regarding the assignment of Real Estate Purchase Contracts; there were several real estate transactions where purchase contracts were assigned before closing to subsequent and sometimes excessive buyers at a higher sales price without the sellers knowledge. Commissioner Musselman noted our current rules make REPCs unassignable. In Massachusetts, there was a case regarding whether a text message can constitute a binding agreement. The Massachusetts Land Court ruled that electronic communications, in particular a text message, bearing the typed first name of a seller's agent formed a binding commercial real estate contract between the principal parties in the case St. John's Holdings LLC v. Two Electronics, LLC. It was noted in the meeting that this follows a similar ruling that a signature block at the end of an email constitutes an electronic signature and could change contracts.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported in the month of May the Division received 33 complaints; opened 0 cases; closed 3 cases; leaving 297 open cases. There are 57 cases assigned to the AG's office.

Stipulation for Review

Allison L Miles

Mr. Nielsen reported the Division has hired two new Real Estate Investigators: Sarah Nicholson and Chris Martindale. Sarah Nicholson has been with the Division for the past year in Licensing and had prior investigative experience. Chris Martindale has significant investigative experience as well and is a former real estate agent. Mr. Nielsen noted this pool of applicants was filled with qualified individuals.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren announced with Ms. Nicholson's transition to Enforcement, the Licensing section now has only one real estate staff member whereas there used to be three. The Division will begin the hiring process for replacement staff members.

Mr. Fagergren announced Pearson Vue will be coming to perform an exam review. In advance of the meeting with Pearson Vue there will be a meeting with an eight person committee to pre-evaluate the questions. The committee members are

Jared Payne, Shane Norris, Ron Bentley, Linda Leavitt, and four Division staff members.

Mr. Fagergren reported on the issue of data entry of non-MLS transactions into the MLS which was discussed at the previous Commission meeting. Mr. Fagergren contacted the MLS to find out how the data should be used. The MLS was discussing the removal of the ability to add non-MLS sales; Mr. Fagergren has not yet heard back regarding any decision that was made. Mr. Fagergren will report back once he has heard the outcome of those discussions.

Mr. Fagergren presented a proposal to amend the Continuing Education rules to grant Core credit to courses on Fair Housing (rather than elective credit) as it deals with federal law.

A motion was made to change Fair Housing courses from an elective course to a core course. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Musselman, yes. The motion was approved.

Mr. Fagergren was going to present a change regarding property management experience for the broker qualifying experience. After discussion with the Division, it was determined the rules as currently written do follow the intent of the Commission decision from December 2015 and therefore do not need to be modified. The Commission discussed the rule.

There are no education stipulations for review.

HEARING OFFICER REPORT/COMMISSION AND INDUSTRY ISSUES – Justin Barney

There are no licensing stipulations for review.

Mr. Barney reported the ruled amendment on undivided fractional interests (the TIC rule) has become effective since the last meeting.

Vice Chair Little reported on the Advertising Rules Subcommittee. The font rule regarding companies on signs and advertisements, as well as teams. Many states have the wording that the information be clear and conspicuous. The decision was to adopt that language and would remove the font size requirement in place. With regards to social media and electronic communication, there has been discussion to adopt the one click rule in an effort to avoid blind ads. There was also discussion whether a buyer agent should be required to disclose that they are an agent as an owner agent is required to disclose this information.

A brief recess was held from 10:02 a.m. to 10:11 a.m.

INFORMAL HEARINGS:

10:11 Jennifer Sagars - Application for Licensure

A brief recess was held from 10:36 a.m. to 10:37 a.m. A brief recess was held from 10:42 a.m. to 10:43 a.m. A brief recess was held from 11:37 a.m. to 11:42 a.m.

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: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Musselman, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 11:55 a.m. to 12:31 p.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulations

Allison L Miles – Approved with Division Concurrence

Ms. Sagers will be notified by mail as to the outcome of his hearing.

A motion was made and seconded to adjourn the meeting. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Musselman, yes. The motion was approved. The meeting adjourned at 12:32 p.m.