

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
February 21, 2018

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Allen McNeil, Real Estate Analyst
Elizabeth Harris, Assistant Attorney General
Tiffany Brown, Assistant Attorney General
Judith Jensen, Assistant Attorney General
Amber Nielsen, Board Secretary
Jennica Gruver, Education Coordinator
Van Kagie, Investigator
Kurtis Hughes, Investigator
Mark Schaerrer, Investigator
Sarah Nicholson, Investigator
Chris Martindale, Investigator
Teresa Larsen, Investigator
Lacey Vawdrey, Division Staff
Connie Mickels, Division Staff

COMMISSION MEMBERS PRESENT:

Lori Chapman, Chair
Lerron Little, Commissioner
Russell K. Booth, Commissioner
William Perry, Commissioner*

*Arrived at 9:05 a.m.

PUBLIC:

Dan Naylor	Kreg Wagner
Heather Swanger	Shane Norris
Nancy Frandsen	Kevin Swenson
Wendy Beagley	Paxton Guymon
Adam Koch	

The February 21, 2018 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Chapman conducting. Commissioner Perry was absent from the start of the meeting. Vice Chair Musselman was excused from today's meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes from the January 17, 2018 meeting of the Commission as written. Vote: Chair Chapman, yes; Commissioner Little, yes; Commissioner Booth, yes; Commissioner Perry, yes. The motion was approved.

No public comment was made at this time.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported House Bill 243 passed before the house. The bill will be going before the Senate. The Bar Association had questions, the language was changed to "subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;" Senator Hemmert will present that amendment on the Senate Floor. It will still need to go back to the House for concurrence.

Director Stewart announced the Division has been given permission to produce a Public Service Announcement. The Division assembled a committee to discuss ideas for issues to address in the PSA. Once there is a script, he will present that to the Commissioners.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported in the month of January the Division received 37 complaints; opened 65 cases; closed 55 cases; leaving 355 open cases. There are 36 cases assigned to the AG's office.

Stipulations for Review

Ludean K. Merritt

John M. Roberts

Margaret Holt-Nuttall

Anya V. Bartholomew

An additional stipulation will be presented prior to the second hearing this afternoon.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the statistics show an increase of 177 agents. However, 114 agents expired in January, which means there was actually a total of 291 new applications received and processed in January.

Mr. Fagergren presented an individual to the Commission for consideration of their

alternative experience in lieu of having a High School Diploma or GED.

Mr. Fagergren stated his support for the rule amendment which will be presented later in the meeting dealing with adding the limit to the number of samples submitted for Broker Experience as discussed at the meeting last month. The Commission discussed this change with Mr. Fagergren to better understand how the new procedure will operate and the information being requested.

Mr. Fagergren expressed some concern over commercial brokerages dealing with mergers and acquisitions where the broker is sending out mass ten day notices, and the agents do not understand or deal with those notices. The new brokers are unaware of this issue until the agents have been inactive for several months. Mr. Fagergren it seems this issue is primarily in commercial areas, whereas the residential agents are more used to the system. There was another instance when another commercial agent was informed he didn't have a license, but he had allowed his license to be expired for over one year.

Mr. Fagergren announced the Annual Division Caravan Course is coming up soon. The Caravan will take place in Park City on April 12, Vernal on April 17, Layton on April 19, Provo on April 24, Moab on May 8, Richfield on May 9, Cedar City on May 10, St George on May 11, and Logan on May 15.

Commissioner Booth reopened the discussion on how to improve awareness with the commercial agents.

COMMISSION AND INDUSTRY ISSUES

Mr. Barney presented changes to the Lead Based Paint Addendum and Disclosure. The Division is trying to make the Addendum and Disclosure consistent with the REPC. Mr. Barney and Ms. Harris of the AGs office discussed the changes. Mr. Barney noted the latest language was presented this morning. If they are approved by the Commission they will need to be given to the Attorney General's Office for approval since they are State Approved Forms.

A motion was made to approve the addendum. The motion was not seconded. The Commission decided to wait until next month to consider these changes.

Mr. Barney reported that the Division has been working on the owner exemption rules. He stated they have been revamped. Mr. McNeil discussed the work the committee had done discussing these changes. The Commission decided to consider this language and vote on the proposed amendment at the meeting next month.

Mr. Barney mentioned that rule amendment also included amendments to the rules regarding the Broker Qualifying Experience, the Lead Based Paint Disclosure and Addendum, and the Broker Experience Table in the Appendices.

A motion was made and seconded to approve the changes to 202b and 501 and move forward with those changes as presented. Vote: Chair Chapman, yes;

Commissioner Little, yes; Commissioner Booth, yes; Commissioner Perry, yes. The motion was approved.

Mr. Barney announced that the rule amendment which had been pending for the last several months and approved last month became effective January 1, 2018.

A brief recess was held from 10:07 a.m. until 10:15 a.m.

The meeting resumed at 10:15 a.m. for the Informal Hearing of Wendy Beagley.

INFORMAL HEARING

10:16 a.m. Wendy Beagley – Respondent
 Kurtis Hughes – Witness for Division

The Informal Hearing of Wendy Beagley concluded at 10:53 a.m.

A brief recess was held from 10:55 a.m. until 11:07 a.m.

TRAINING BY ASSISTANT ATTORNEY GENERAL ON ADMINISTRATIVE AND HEARING PROCEDURES

The meeting resumed at 11:07 a.m. Assistant Attorney General Che Arguello conducted the training for the Commissioners.

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 Chapman, yes; Commissioner Little, yes; Commissioner Booth, yes; Commissioner Perry, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 12:00 p.m. to 12:18 p.m.

OPEN TO PUBLIC

A brief recess was held from 12:18 p.m. until 12:58 p.m.

Stipulations for Review

Joseph E. Cunningham

INFORMAL HEARING

10:16 a.m. Stephen Adam Koch – Respondent
Paxton Guymon – Counsel for Mr. Koch

The Informal Hearing of Stephen Adam Koch concluded at 1:52 p.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: Chair Chapman, yes; Commissioner Little, yes; Commissioner Booth, yes; Commissioner Perry, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 1:53 p.m. to 2:13 p.m.

OPEN TO PUBLIC

Results of Executive Session

Michael Q. Le – Approved with Division Concurrence
Patricia Wright – Approved with Division Concurrence
Blake D. Rounkles – Approved with Division Concurrence
Lois Kunz – Approved with Division Concurrence
Timothy J. Moss – Approved with Division Concurrence
Matthew Pehrson – Approved with Division Concurrence
Cynthia W Toone & Guard Right Property Management LLC – Rejected

Ms. Beagly and Mr. Koch will be notified by mail of the results of their hearings. Mr. Baron will be notified of the Commission's decision on his alternative experience application.

A motion was made and seconded to adjourn the meeting. Vote: Chair Chapman, yes; Commissioner Little, yes; Commissioner Booth, yes; Commissioner Perry, yes. The motion was approved. The meeting adjourned at 2:14 p.m.