

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 205
8:30 a.m.
March 17, 2004

MINUTES

STAFF MEMBERS PRESENT:

Dexter Bell, Division Director
Mark Fagergren, Licensing and Education Director
Jon Brown, Chief Investigator
Dee Johnson, Investigator
Renda Christensen, Secretary
Shelley Wismer, Assistant Attorney General

COMMISSION MEMBERS PRESENT:

Danny M. Holt, Chair
Gage Froerer, Vice Chair
Thomas M. Morgan, Commission Member
Dorothy M. Burnham, Commission Member
Maralee Jensen, Commission Member

GUESTS

Kevin Swenson, Stringham Real Estate School
Bonnie Peretti, Park City Board of Realtors

The March 17, 2004, meeting of the Utah Real Estate Commission began at 8:35 a.m. with Chair Danny Holt conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes for February 18, 2004 meeting were reviewed and found that there were no corrections or additions. A motion was made by Mr. Froerer, seconded by Ms. Burnham, and unanimously passed to accept the minutes with no changes.

Other Business

Mr. Morgan brought up the issue of more REPC training for new licensees. Mr. Fagergren asked what hours Mr. Morgan thought should be cut on the curriculum to allow more hours for REPC training. Mr. Fagergren agreed that more training would be helpful, but feels the brokers should spend time with new licensees, not necessarily change pre-licensing curriculum. Mr. Brown said that not many complaints deal with REPC problems. Mr. Fagergren told the Commission that next month the 3-hour video

of Dave Johnson's class will cover more REPC training, and should help. Ms. Burnham mentioned that maybe it is time to look at the allocation of time given to REPC training. Mr. Froerer asked Mr. Swenson what he thought could be cut back in training, and Mr. Swenson thought land description would be a possibility. Mr. Dee Johnson mentioned that the industry usually has large companies that come in and train new people on the REPC. The attempt is to give the new licensees a concept of what goes on in real estate, and he feels that spending a great deal of time on REPC training would not be productive until the individual has gone through a couple of actual real estate transactions.

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DIVISION REPORTS

INVESTIGATIONS REPORT – Jon Brown that the number one recognized straw buyer is a single, minority, female, and with good credit scores. Many of these people are approached by people in their neighborhood or church.

Mr. Brown mentioned that three weeks ago, he, Mr. Fagergren and Mr. Johnson, all attended a regional conference of state regulators on mortgage fraud in Boise, Idaho. Washington made a settlement with Household Finance and Beneficial Finance, getting a \$454 million settlement. They spent \$100,000 on a study from the University of Washington showing a breakdown of victims. The most common types were single heads of households (either divorced or never married), 29-49 years of age, high school educated, who never paid off their credit cards balances. These victims got their financing to pay off credit card bills or buy a new car, and in another year many were in the same problem again.

Mr. Brown said the Division has policed the appraisers so tightly that the Division is now seeing a large number of forged appraisals from loan officers. These loan officers couldn't get the appraisers to give them the figures they needed, so they forged the papers. Ms. Burnham mentioned that on KSL radio this morning there was a report on the Division cracking down on sloppy appraisers. Ms. Wismer mentioned that there is a public information file that the Department maintains that has all of the Stipulations and Hearing Orders. Periodically reporters will come over and review these documents.

DIRECTOR'S REPORT – Dexter Bell

Director Bell opened his report by giving the Commission a brief summary of the mortgage legislation that passed on March 3, 2004. The Division used some of the regulations that are now being used in the Real Estate industry as their model. Some of the highlights of the bill include:

1. Creating a Principal Lending Manager beginning January 1, 2006. The requirements will be to have either 3 years mortgage lending experience, 40 hours of education, and passing the exam, or 5 years of licensed lending experience.
2. A licensee can only work for one entity now, there will be no independent brokers.
3. Bonds have been replaced with an Education/Recovery Fund.
4. A licensee who works for a regulated entity may not also work for an exempt

entity. If an exempt individual takes out a license, they thereby agree that they come under the jurisdiction of the Division.

5. An "inactive" status has now been created.
6. A company now must give a regulatory history for the last 10 years.
7. Beginning January 1, 2005, 20 hours of pre-licensing education for new individuals is required.
8. The Division now has authority to regulate mortgage schools and instructors.

Director Bell said that the Continuing Education bill passed that modifies the provisions for the renewal of an expired license, and includes military service as one reason a person may be exempted from certain CE requirements.

The Division has received an Order of Remand from the Department Executive Director on the Frank Kilby appeal. The Order says that there has been new information that was not brought up at the first hearing, so the Commission is to hold a second hearing.

Director Bell told the Commission that he will be sending out a letter to New Mexico today about the reciprocity agreement. He will be asking them why they removed several items from the contract.

Ms. Burnham asked about the 24 hours of continuing education that was originally in the bill. Director Bell said that it was cut out early in the session because there was no legislative support. The Commission agreed unanimously that they need to call the UAR about increasing CE hours.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported that Promissor has opened two new test centers in Ogden and Orem. The tape of Dave Johnson's course is being copied now and copies will be available in April to anyone who needs it for CE. Mr. Fagergren commented that most of the courses that the boards want are not the "nuts and bolts" courses. They are the "How to Prepare for your Retirement" courses.

There have only been approximately 3% of the mortgage licensees that have taken the exam, leaving 97% that need to take the test by the end of the year. This will have an effect on everyone else that has to take an exam. The numbers of real estate licensees are 16,000 agents, with 9,000 being active. Director Bell said that there is about an increase of 1,000 every year.

LICENSING HEARINGS

9:30 Lynn A. Jenkins – Application for Licensure – No Show

9:45 Steven R. Wallace – Application for Licensure

A motion to go into Executive Session was brought by Ms. Burnham and seconded

by Ms. Jensen. Executive Session was from 11:12 to 11:38 a.m.

EXECUTIVE SESSION

Results of Executive Session:

Lynn A. Jenkins – Reschedule for another hearing next month

Steven R. Wallace – Granted on probation with broker notification.

On the list presented of Applicants with Lesser Criminal Connections, the Commission approved the following applicants:

Danielle Hunt

Jason L. Holmes

Gregory S. Pope

Ashley Farmer

Rick L. May

Theron C. Willardson

Rachael Lynn Koegel

Jennie L. Offer

Amber L. Salles

Thomas W. Lalor

Timothy A. Shea

Veronica R. French

Two of the applicants will be scheduled for informal hearings:

Clint D. Knapp

David Smith

A hearing will be scheduled for Babs Delay to be a licensed instructor.

OTHER BUSINESS

Ms. Wismer reviewed the amendments to the code in HB 357 that were recently passed by the legislature. She explained the exemption from CE for military service and the fact that, at the last minute, Director Bell had been able to get an amendment passed that solved the "inactive for a day" problem. Now, if a person was on inactive status at the time of last renewal, they have to take 12 hours of CE in order to activate, but if they renewed on active status (and therefore had to take 12 hours of CE to renew) and then something happens that causes the person to inactivate for a brief period of time, they will not now be required to take additional CE to activate.

Ms. Wismer discussed the draft of proposed Rule R162-3-5, Activation. This section has now been re-worded to match the changes in HB 357. In Sections 3.6.4 and 3.6.4.1, a reference to a section in the code was changed because the bill that was just passed changed the section number in the code. Section 3.6.4.1.1 of the previous proposed rule has been deleted from the draft because there was no authority to make that type of rule. New Section 3.6.4.1.1 of the current draft, Additional Continuing

Education Hours for Reinstatement, was re-worded to make it clear that a person can't use the same CE twice. Section R162-3-7, Exemption from Continuing Education Requirements, is new language in the rule. There was discussion about deleting the last two sentences of Section 3.7 which states that no hearing will be held on an application. It was agreed that more discussion was needed on the military exemption section of the rule. A motion was made by Mr. Froerer to approve and start the rule making process on the draft rule of 03-15-04, except for Section R162-3-7. The motion was seconded by Ms. Jensen and passed unanimously.

It was discussed and agreed that an article on activation versus inactivation should be added in the next newsletter.

A motion was made, seconded and approved to adjourn. There being no further business or discussions, the meeting adjourned at 11:40 a.m.