

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
January 19, 2005

MINUTES

STAFF MEMBERS PRESENT:

Dexter Bell, Division Director
Mark Fagergren, Education/Licensing Director
Jon Brown, Enforcement Director
Dee Johnson, Investigator
Dave Mecham, Investigator
Blaine Ferguson, Assistant Attorney General
Shelley Wismer, Assistant Attorney General
Ron Kunzler, Assistant Attorney General
Renda Christensen, Board Secretary
Amy Corak, Real Estate Education Secretary
Amanda Orme, Mortgage Education Secretary
Carla Westbrook, Appraiser Education Secretary
John Berg, Mortgage Licensing Technician
Denise Halligan, Division Staff

COMMISSION MEMBERS PRESENT:

Gage Froerer, Chairman
Dorothy Burnham, Vice Chair
Maralee Jensen, Commissioner
Bonnie Peretti, Commissioner
H. Blaine Walker, Commissioner

GUESTS

Kevin Swensen
Linda Leavitt
Karen Post

The January 19, 2005, meeting of the Utah Real Estate Commission began at 9:04 a.m. with Chair Froerer conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes of the December 15, 2004 meeting were reviewed and approved as written.

DIVISION REPORTS

INVESTIGATIONS REPORT – Jon Brown

Mr. Brown reported there were 25 written complaints in the month of December, 6 new cases opened for investigation, 5 files closed, leaving 233 cases opened.

DIRECTOR'S REPORT – Dexter Bell

Director Bell said he will be speaking at the Realtor Day on the Hill for one hour on February 22, 2005.

He reported the mortgage exam has greatly affected the real estate division. There were approximately 11,000 active individual mortgage licensees, and only approximately 5,500 have passed the test. This leaves approximately 5,500 licensees remaining. The Division has had year-end rushes for the last few years. The year 2003 was the largest year ever for licensing mortgage individuals. In 2004, there were two deadlines, the last day to take the exam, and pre-licensing education beginning on January 1, 2005. Hundreds of people came in to try to beat the deadlines. The Division sent out investigators to knock on doors of the mortgage companies to verify if their employees had taken the test. There has been a very high level of compliance from the industry as discovered by the investigators going out.

At the end of this year, mortgage will have another year end rush with the principal lending manager license beginning in January 2006. The Division will try to push the deadline back until June.

Ms. Jensen asked if there had been a clarification on the banker vs. broker issue. Mr. Johnson said there were a few issues still. Director Bell said a newsletter article is needed to clarify the issue. Also, the bill will state that closers, funders, and account executives do not need to be licensed. Solicitors and loan originators will still need to be licensed. Wholesale representatives will not need to be licensed, only telemarketers or those generating leads and contacting the public need to be licensed. Ms. Jensen suggested there be an article in the next newsletter on this topic.

Director Bell said there are several bills being introduced which would send the contractors, homebuilders, or title industry to the Division. Another bill would require the Division to regulate RESPA, and another to regulate tenants-in-common 1031-exchanges. He believes this is because of the commission model structure. If this is going to happen, the Division will need time and resources.

Director Bell passed out a sample copy of the Qualifying Questionnaire that has been changed to better accommodate the industry. The Commission agreed the wording was better and suggested some changes of emphasis.

Director Bell said several other states have approached asking for reciprocity agreements, namely Ohio, Pennsylvania, Mississippi, Indiana and Washington. He asked the Commission if there was a motion to concur on adding Mississippi and Washington, and the Commission passed the motion unanimously.

Chair Froerer asked how the on-line renewal process was affecting the Division. Director Bell said in January there are 753 licenses eligible for renewal, 91 have renewed, 57 on-line and 34 in-house. In December the mortgage industry had larger on-line numbers, with 857 eligible, and 184 renewing. 101 were done on-line and 83 were done in-house. It looks like on-line renewal is being well received, but could be better. Chair Froerer said the real estate industry is pleased that this option is available. The Commission suggested there be an article in the next newsletter regarding on-line renewals.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the mortgage crush has really affected the real estate industry. The education and real estate employees have been helping to cover the large numbers of mortgage licensees and their questions. There is a limited number of personnel available to help, and he wanted to let the Commission know these individuals are doing the best they can to help everyone.

Mr. Fagergren asked the Commission for their feedback on the video he handed out in the last meeting regarding its potential of being used as the new core course. This course will cover July 1, 2005 until June 30, 2007. It was agreed that brokers must take time to teach their agents about REPC. A motion to accept this tape as the new core course was passed and unanimously accepted.

Mr. Walker asked how much publicity has been sent out regarding the February 16, 2005 public input session. Ms. Burnham suggested sending out e-mails out to the boards, associations, and schools. Mr. Fagergren said he would make sure all the e-mails would be sent out.

COMMISSION MEMBER TRAINING

Mr. Ferguson handed out articles and discussed Administrative Law Overview and the Open Meetings Act.

Ms. Wismer handed out articles and discussed the Enactment of Rules and the Enactment of Statutes.

Director Bell handed out a phone list of all the Division's employees to all Commission members. He introduced the staff of the Division: Amy Corak, Amanda Orme, Carla Westbroek, John Berg, and Denise Halligan. He also handed out an organizational chart of the Division.

Mr. Fagergren covered Licensing and Education. He explained how the Division tries to carry out the rules and regulations passed by the Legislature and Commission. There are three primary functions of the Division: licensing, education and enforcement. Division statistics show there are approximately 14,500 mortgage licensees; 20,500 real estate licensees; and, 1,000 appraisers. Much of the time spent by the Division is handling public inquiries. The Division has been enforcing the "tough

love policy.” Chair Froerer asked about the turn-around time on applications. Mr. Fagergren said there are two people doing licensing. When they get overwhelmed with applications, we pull other employees to help process the applications. Ms. Christensen noted one problem in processing license applications and renewals are the incomplete applications. She mentioned that the on-line renewal process will help, but that licensees need to be aware they must keep their CE records for three years. When a continuing education audit is being conducted, these originals CE certificates must be turned in to the Division.

LICENSING HEARINGS

- 11:38 Tone Te – Application for Renewal
Cherrish Valdez, Fiancée
- 12:30 Bryan Berry – Application for License
Rebecca Berry, Wife
- 1:25 Liza McKenzie – Application for License
- 1:30 Renee Roman – Application for License
Did not show
- 2:15 Johnette Wallop – Application for License

A motion to go into Executive Session was passed, and was held from 2:25 p.m. to 3:20 p.m. This was a working lunch.

COMMISSION MEMBER TRAINING (Continued)

Mr. Brown spoke about anonymous complaints the Division receives. He reminded the Commission that Stipulations presented to them are a “reader’s digest” version of the charges against the licensee.

Ms. Wismer discussed the Administrative Hearing Process. The UAPA allows either formal or informal proceedings. The hearings before the Commission are proceedings that have been designated by the Division as informal proceedings.

Ms. Christensen said there are some corrections in the rates for travel and meals shown in the Commission Manuals. The travel reimbursement forms that each Commission member signs at each meeting, ask if the meeting is 4 hours or less. The rates paid for a meeting 4 hours or less, a Commissioner will be paid \$60.00. If the meeting goes longer than 4 hours, the Commissioner will be paid \$90.00.

Mr. Fagergren handed out a copy of the outline for the 90 hours of Real Estate Principles and Practices. Discussion was held on a licensee opting out of required education.

Review of Lesser Criminal Convictions:

Pamela Angus
Mitchell Beeton
Kaylynn Blackham
Westley Betterfus
Lincoln Calder
Andrea Ditto
Daniel Eerkes
Kent Heitz
Allison Hunt
Cody Judkins
Jeffrey Katsilas
Lacey A. Lund
Wilford Lundskog
Michael Mietchen
John Post
Benjamin Tatton
Olga Franco-Walter
David Whitmer

A motion to go into a second Executive Session was made and held from 4:08 p.m. to 4:25 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearings:

Tone Te – Granted on suspension for one year
Bryan Berry – Denied
Liza McKenzie – Denied
Renee Roman – No action taken
Johnette Wallop – Granted on probation, subject to broker notification

Stipulations:

Karl F. Koenig - Accepted
Jonathan Olch – Accepted
Henry Sigg – Accepted
Kathy Whimpey – Rejected
Todd C. Lish – Accepted

Lesser Criminal Convictions:

Pamela Angus - Accepted
Mitchell Beeton - Accepted
Kaylynn Blackham – Accepted
Westley Betterfus - Accepted
Lincoln Calder - Accepted
Andrea Ditto - Accepted
Daniel Eerkes – Accepted

Kent Heitz - Accepted
Allison Hunt - Accepted
Cody Judkins – Schedule for hearing
Jeffrey Katsilas – Schedule for hearing
Lacey A. Lund - Accepted
Wilford Lundskog - Accepted
Michael Mietchen - Accepted
John Post - Accepted
Benjamin Tatton - Accepted
Olga Franco-Walter - Accepted
David Whitmer – Accepted

A motion was made and accepted to adjourn the meeting at 4:30 p.m.