

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

July 15, 2009

### **MINUTES**

#### DIVISION STAFF PRESENT:

Thad Levar, Acting Director  
Dee Johnson, Enforcement Director  
Mark Fagergren, Education and Licensing Director  
Traci Gundersen, Assistant Attorney General  
Jennie Jonsson, Hearing Officer  
Renda Christensen, Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator

#### COMMISSION MEMBERS PRESENT:

Doyle "Sam" Sampson, Chair  
Gary R. Hancock, Vice Chair  
H. Blaine Walker, Commissioner  
Kay R. Ashton, Commissioner  
Stefanie Tugaw-Madsen, Commissioner

#### GUESTS:

Paul Naylor	Rob Ponte
Irene Kennedy	Tammy Lund
Pates Christensen	Jack Marinello
Kevin Swenson	Elizabeth Watts
Les Strange	

The July 15, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Sampson conducting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The Minutes from the June 17, 2009 meeting were approved as written.

Chair Sampson reminded the Commission that there is a meeting scheduled for July 25, 2009. This is continuation of a previous disciplinary hearing.

### **DIVISION REPORTS**

#### DIRECTOR'S REPORT – Thad Levar

Acting Director Levar introduced Jennie Jonsson. Ms. Jonsson was recently hired as a Hearing Officer, and she will be drafting this Commission's Orders.

Acting Director Levar gave the Commission a brief update on SB-81, the illegal immigration bill. The requirement of the bill that is relevant to the Division of Real Estate is that all applications for licensure and renewal will now ask for an affirmation under penalty of perjury that they are either a citizen or a qualified alien. All Division forms now carry this affirmation. The second part of the bill is to verify this information under a database maintained by the Department of Home Land Security.

Acting Director Levar said he had a phone conversation last week with Representative Curtis Webb. Rep. Webb has become aware of an issue that he is going to run legislation on and feels that it deserves public comment. The issue is provisions that are going into recorded real estate documents where the original seller gets 1% of the purchase price upon each sale of the property within the next 99 years. Commissioner Walker stated this is a national issue.

#### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said there were no Stipulations for the Commission to review today.

During the month of June the Division received 29 complaints; screened 26 complaints; opened 3 cases; closed 6 cases; leaving total real estate cases at 112.

Mr. Johnson said we are receiving fewer serious complaints, and they blossom into other things. The majority of complaints we are receiving currently have been centered around the mortgage arena. There are often spin-offs for both appraisers and mortgage. The categories of complaints are advertising complaints and blind ads. Cases involving fraud have been changing because it is now computerized and much more sophisticated.

#### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said he is turning some time over to Ms. Lund to explain another recommendation that the Education Task Force has regarding the increase of hours from 90 to 120.

There was some discussion at the last meeting about rules, and the Commission asked for more discussion on competency-based continuing education. Continuing education is to advance a person's knowledge base. Part of the Task Force felt like there is an aversion to a comment often heard by licensees that they really don't like to take these certain courses, and they should be able to opt out of them. In an attempt to try and address this on a small level, the Task Force prepared a rule that gives an individual the ability (if they take and pass the State and National exam), to bypass the requirement for continuing education.

Originally, when the Commission and Division looked at distance education, they voted for a rule that required "ARELLO certification" for distance education. After looking at the expense of this requirement, the Division suggested that ARELLO certification not be required, and the Commission supported that suggestion.

Instead, the Division said a course needs to have guidelines and feedback to make sure the student understands each component of the class. The Division worked with providers to get more control over distance education.

A rule was presented to allow the Division to make revisions. In R162-9-3 (Revised), Section 9.3 states that licensees shall waive continuing education requirements if they take and pass both portions (Utah State Law and General) of the Utah Sales Agent or Utah Broker exam during their renewal period.

Commissioner Walker said the intent of continuing education is to have the person take classes where they are weak to increase their proficiency. He is against a licensee getting a waiver to not take continuing education. He said the exam doesn't go into detail on the REPC, especially the new form, to make sure the licensee knows what they are doing. He opposes Section 9.3.

Section 9.4 states the evaluation criteria for competency based continuing education is determined based upon a courses overall content and associated delivery and evaluation methods to determine whether the course provides comprehensive competency measures that are rigorous, comprehensive, timely and unique for each student and/or class session.

Vice Chair Hancock suggested the Commission take no action at this time on the revisions of this rule, and to continue to develop thoughts and ideas. When there is more information, we can review the rule again.

Ms. Lund said in the last meeting of the Education Task Force, they were in agreement that this competency based education would only apply to the nine elective hours. The nine core hours would have to require something equivalent to being in a seat.

Mr. Fagergren turned some time over to Ms. Lund, Chairman of the Education Task Force. A draft of the 120 hour outline was passed out for review. Some of the changes would be increasing the hours in agency, contracts, settlement, and Federal and Utah laws. Ms. Lund said if approved today, these changes can take effect on January 1, 2010.

Chair Sampson asked for comments or suggestions from the Commission. Commissioner Walker wondered if four hours are enough time for property management and two hours for construction. Ms. Lund suggested they might be added under Utah Law. A motion was made to approve the outline subject to adding more hours for construction and property management. The motion was seconded, and passed unanimously.

#### COMMISSION AND INDUSTRY ISSUES – Sam Sampson

Commissioner Walker discussed R162-6.2.12, Gifts and Inducements. He believes that an increase should be made to the fair dollar amount on referrals.

Commissioner Walker also stressed caution on this increase. The current amount is \$50.00 and he would like to see it increased. Since there was considerable discussion on this issue, it will be placed on the next agenda for next month.

Commissioner Tugaw-Madsen discussed R162-4, Office Procedures – Real Estate Principal Brokerage. Section 4.3.4 discusses Branch Brokers, specifically stating they are required in each Branch. Commissioner Tugaw-Madsen said her office has recently received a call from an individual that is a property management-type firm that wanted to be able to have a branch office in a different city, but not require them to have a branch broker. The request would violate this particular rule. After some discussion, the Commission made a motion to make no change in the rule. This was passed unanimously.

A Motion was made and accepted at 10:36 a.m. to close the meeting for licensing hearing.

**LICENSE HEARINGS: CLOSED TO PUBLIC**

10:44 Leslie Strange – Application for Renewal

11:00 Alan Croshaw – Appeal of Order  
Mr. Croshaw has withdrawn his Appeal.

A motion was made and accepted to go into Executive Session from 11:39 a.m. to 1:00 p.m.

1:00 Monte Garcia – Application for Renewal

A motion was made and accepted to go into Executive Session from 2:00 p.m. to 2:06 p.m.

2:06 James P. Crandall, Jr. – Application for Renewal

3:00 Nicholas Obad – Appeal of Order

A motion was made and accepted to go into Executive Session from 3:15 p.m. to 4:10 p.m.

## RESULTS OF EXECUTIVE SESSION

A Motion was made and accepted to adjourn the meeting at 4:11 p.m. The Motion was passed unanimously.