

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 2B

9:00 a.m.

August 19, 2009

TELEPHONIC MEETING

MINUTES

DIVISION STAFF PRESENT:

Dee Johnson, Enforcement Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Carlos Alamilla, Investigator

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Kevin Swenson	Paul Naylor
Tammy Lund	Karen Post
Irene Kennedy	David Bornemeier
Lance Miller	Chad Ahearn
Curtis Bullock – by phone	Mike Welker

The August 19, 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

There were two corrections that need to be changed. Page 2, second paragraph, the corrected sentence should read "...the original seller gets 1% of the purchase price upon each sale..." In that same paragraph the sentence above should read "...are going into recorded real estate documents.." With these two corrections, the minutes were approved as amended.

DIVISION REPORTS

DIRECTOR'S REPORT – Jennie Jonsson

Ms. Jonsson will be the Acting Director for the meeting today.

There are three rules related to real estate that have been out for public comment. The public comment period ended last Friday. These rules are being presented to the Commission today for a motion to put them into effect. These rules are R162-4-4, Written Instructions for Commission Distribution by Title Insurance Agent; R162-3-6, Renewal and Reinstatement; and, R162-9-2, Determining Fitness for Course Certification.

A motion was made to approve R162-4-4, R162-3-6, and R162-9-2. The motion was passed unanimously. These rules can be made effective this Friday, August 21, 2009.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson explained the correspondence the Division received from Leslie Strange. Mr. Strange had a hearing before the Real Estate Commission on a Stipulation he had regarding his Appraiser license. This letter is strictly for the Commission's information only. This same letter will be presented to the Appraiser Board next week for their consideration.

Mr. Johnson reported in the month of July the Division received 38 complaints; screened 26 complaints; opened 5 cases; closed 6 cases; leaving the total number of cases at 111.

There are four stipulations being presented to the Commission. The respondents were given the chance to appear to answer any questions the Commission might have and declined to attend. Three of the Stipulations are from Enforcement, and one is from Education/Licensing issue.

Review of Stipulation:

Ryan V. Kimball

John B. Jordan

Jason F. Sucher

James I. Miller

EDUCATION AND LICENSING REPORT – Tiffeni Wall

Ms. Wall wanted to remind the Commission and those in attendance today of the Instructor Development Workshop. This year it will be held on October 19-20, 2009 at the Sheraton Hotel.

The newsletter will be sent out by the end of the month.

Ms. Wall is turning time over to Ms. Lund to discuss the 120-hour outline. Ms. Lund presented to the Commission the final draft with the changes made from the last meeting. Commissioner Walker brought up Hybrid Forms of Ownership and suggested that the item 3, Townhouse, be deleted. Ms. Lund agreed and the topic will be removed.

Another question was on page 9, Common Lease Provisions and Clauses, Commissioner Walker suggested another item, Tennant Improvements and Space Modifications be added. It was agreed to add this item to the outline.

On page 18, under Other Utah Real Estate Acts, item "C", the word "can" needs to be removed.

Paul Newton, Backman Title, suggested on page 10, under Title Insurance, there should be a number 4, Homeowner's Policy. This topic will be added to the outline.

COMMISSION AND INDUSTRY ISSUES – Sam Sampson

Ms. Jonsson said in last month's Commission meeting the Commission heard some application cases where there was some question as to whether the Commission could impose a fine for non-disclosure (not reporting criminal histories or licensing actions), within their renewal periods. The Division has done some research and is presenting their findings today.

The Attorney General's office insists there be a distinction between an application hearing and a disciplinary hearing. In an application hearing a fine can not be imposed; however, it is possible for the Commission to suspend the license, but offer the applicant the option of entering into a Stipulation with the Division to pay a fine in order to have the suspension lifted. This would apply to both renewals and new applications.

Ms. Jonsson continued to report that occasionally we find a situation where there was a criminal history that had occurred farther back than the renewal period that was not disclosed on a previous renewal application. This is also a situation where the Commission can suspend the license until/unless the person stipulates to a fine.

Commissioner Tugaw-Madsen received a call from a title company that helps customers through the short sale process. They called the Division, and the Division's response was title companies don't have any business in

negotiating. Commissioner Tugaw-Madsen would like the Division to talk through this process with the title company. It should be acceptable for title to talk with the loss mitigators and go through the process that a short sale takes before it gets to the negotiations, and then hand it back over to the realtor to negotiate with the bank what the final terms of the short sale would be.

Mr. Johnson said if a title company called the Division and asked this question, we would make the explanation that this falls into one of three categories. First, if they are working with a real estate licensee, and the licensee has brought to them the papers, and the client asks can you find out who we need to contact, what we need to do, and what their requirements would be, the Division would not have a problem with this. Secondly, if the client is working directly with the title company, the seller generally doesn't know what to ask for. The Division feels like the title company is taking the position whereby they would respond, let us do that for you. The Division would have a problem with that. The third situation, a title company is trying to create business by saying, if you are facing a short sale, come to us because we can handle anything you need. Without question, the title company has stepped into the arena of real estate jurisdiction. Mr. Johnson said he would be glad to meet with the title company.

Mr. Johnson said this topic could be discussed in a future newsletter.

Commissioner Walker discussed the topic of token gifts. After much discussion, a motion was made to raise the limit from the current amount of \$50.00 to \$150.00. The motion was seconded and unanimously approved. Ms. Jonsson will have a draft rule for the next meeting.

A motion was made and accepted to go into Executive Session from 10:15 a.m. to 10:28 a.m.

RESULTS OF EXECUTIVE SESSION

Results of Stipulations:

Ryan V. Kimball - Approved

John B. Jordan - Rejected

Jason F. Sucher - Approved

James I. Miller - Approved

A Motion was made and accepted to adjourn the meeting at 10:30 a.m. The Motion was passed unanimously.

