

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

October 21, 2009

MINUTES

DIVISION STAFF PRESENT:

Deanna D. Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education and Licensing Director
Traci Gundersen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Van Kagie, Investigator

COMMISSION MEMBERS PRESENT:

Gary R. Hancock, Vice Chair
Kay R. Ashton, Commissioner
Stefanie Tugaw-Madsen, Commissioner
H. Thayne Houston, Commissioner

GUESTS:

Bonnie Peretti	Lance Miller
Jack Marinello	Chad Ahern
Kevin Swenson	
Fred Repman	

The October 21, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Vice Chair Hancock conducting.

Commissioner Walker is attending the ARELLO convention and will not be in attendance for this meeting.

Ms. Jennie Jonsson is out ill today and will not be in attendance.

PLANNING AND ADMINISTRATIVE MATTERS

Vice Chair Hancock welcomed Mr. H. Thayne Houston as a new Commissioner to the Real Estate Commission. The Oath of Office was administered to Mr. Houston by Administrative Law Judge Masuda Medcalf.

Commissioner Houston introduced himself to those in attendance. He has been a broker in St. George for 26 years, and is licensed in Arizona, Nevada, and Idaho. He works on the residential and commercial sides of real estate.

Approval of Minutes

The Minutes from both the September 16, 2009 and September 17, 2009 meeting were approved as written.

Elections were held for new Commission officers. After nominations, the new Chair for the Commission is now Gary Hancock. Nominations were then taken for the office of Vice Chair, and Commissioner Ashton was elected unanimously to fill that position.

The Commission reviewed the Commission Calendar for 2010. Commissioner Tugaw-Madsen noted that there might be a conflict in the month of August, because that date conflicts with the UAR convention. It was decided to change the date for the meeting to August 11, 2010. There also might be a conflict in the month of May, and Commissioner Tugaw-Madsen will check the actual date to see if it conflicts with the NAR convention. The Commissioner Calendar for 2010 will be reviewed again next month to finalize this May date. It was decided that instead of automatically scheduling a telephone every other month, the calendar will remain as live hearings every month.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey acknowledged former Commissioner Bonnie Peretti in attendance, and awarded her a plaque for her four years of service to the Real Estate Commission. Ms. Peretti thanked the Division and Commission for the opportunity she had to serve as Commissioner.

Director Sabey discussed the number of foreclosures and the impact it will have on the Division and Commission. The information referred to came from www.realtytrac.com and shows foreclosures in the previous six months have increased 37%, and filings for foreclosures have increased 30% in Quarter Two, and 19% in June. Utah is the sixth in the nation for our foreclosure rates. Typically, foreclosure rates are tied to unemployment, and in our state, we don't have unemployment that is as high as quite a few other states.

Director Sabey expects to see this increase continue for the next year, and this will mean that the Division will see more short sale issues, foreclosure rescue and loan modification issues that the Division will have to handle. There will probably be some legislation in March because of these issues.

The Division website now has the 2009 statute and rule changes posted.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of September the Division received 47 complaints; screened 39 complaints; opened 21 cases; closed 7 cases; leaving the total real estate cases at 124. He believes these numbers will continue to rise.

Vice Chair Ashton asked what types of complaints the Division has been receiving. Mr. Johnson said there is a variety of complaints being seen, and these include everything from blind ads, short sales, foreclosure rescues, to the more serious complaints such as fraud. On today's mortgage fraud blog, there is an article where two Connecticut real estate agents were charged with engaging in short sale mortgage fraud scheme. In 2007-2008, these individuals conspired to defraud financial institutions of the full proceeds due them on four separate real estate transactions. This included using straw buyers and an end buyer (or what was referred to as the legitimate purchaser). Mr. Johnson said we will be seeing more of these issues coming up, and it will become a hot topic in the future.

There are five 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.

Review of Stipulations:

Charles R. Dubec, Jr.
Michael B. Lapay
Melvin Glen Aitken
Lois Kunz
Julie Shaw

Because Director Sabey has a previous engagement she must attend, an Executive Session was held from 9:30 a.m. to 9:43 a.m. so she could participate in the discussions on the Stipulations.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the Instructor Development Workshop was a success. The comments regarding the guest speaker, Amy Chorew, were positive. He thanked Vice Chair Ashton and several in the audience for their attendance. Mr. Fagergren thanked Ms. Wall and his staff for their help with the IDW.

Mr. Fagergren said that a set of current statues and rules is being compiled, and when completed shortly, will be distributed to the Commission for their use.

There has been some regression on reciprocity with other states. Colorado, Idaho, and Arizona have withdrawn their reciprocity with Utah. In each of these states, their legislators and/or regulators have decided they wanted to have requirements to be more state-specific instead of a reciprocal license. Currently, we have reciprocity with Georgia, Mississippi, and Alberta, Canada.

The Division has received a request from the state of New York for reciprocity with Utah. If the Commission agrees with their application, Mr. Fagergren will contact New York and let them know. Chair Hancock suggested the Division contact states where there are military installations and major industries where people are transferring between different states. He mentioned specifically Dayton, Ohio where there is an air force base. The Commission decided to wait for Commissioner

Walker to return from his ARELLO conference before they vote on New York's application.

Mr. Fagergren discussed a broker application received by the Division. Our rule specifically states that a principal broker and associate broker applicant will submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60 points accumulated. Applicants who have been short either in the three years experience or in the accumulated points have been declined. This specific application was denied on insufficient experience, and the person is asking for a decision from the Commission on his denial. The Commission can either approve this application or have him appear before the Commission in a hearing. Mr. Fagergren reminded the Commission that experience gained while unlicensed is not acceptable.

Chair Hancock asked Mr. Fagergren about the number of licensees declining since last year. The number of brokers and companies has increased, but the sales agents are down. Mr. Fagergren said there is an increased number of new companies and mergers happening, and with the hard times in the industry, some are opting to not renew their licenses.

A Motion was made and accepted at 10:11 a.m. to close the meeting for licensing hearing.

LICENSE HEARINGS: CLOSED TO PUBLIC

- 10:30 Lonnie Larson – Application for Renewal
- 11:00 Stanley Beckstrom – Application for Renewal
Todd Weiler, Attorney
Kurtis Hughes, Investigator for Division
Van Kagie, Investigator for Division

A motion was made and accepted to go into Executive Session from 12:30 p.m. to 1:05 p.m.

- 1:05 Robert L. Taylor – Appeal of Order
- 1:38 Marcela Montemurro – Application for License
Paul Willden, Principal Broker

A motion was made and accepted to go into Executive Session from 1:55 p.m. to 2:10 p.m.

- 2:12 Eddy Tew – Disciplinary Hearing
Aaron Lancaster, Attorney

Brad Tew, Principal Broker, Husband
Van Kagie, Division Investigator
Tiffeni Wall, Real Estate Education Coordinator
Jennica Robison, Division Staff

A motion was made and accepted to go into Executive Session from 4:19 p.m. to 5:05 p.m.

RESULTS OF EXECUTIVE SESSION

Results on Stipulations:

Charles R. Dubec, Jr. - Approved

Michael B. Lapay - Approved

Melvin Glen Aitken - Approved

Lois Kunz - Approved

Julie Shaw - Approved

A Motion was made and accepted to adjourn the meeting at 5:06 p.m. The Motion was passed unanimously.