

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

April 21, 2010

MINUTES

DIVISION STAFF PRESENT:

Deanna D. Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education and Licensing Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Dave Mecham, Chief Investigator
Van Kagie, Investigator
Chuck Smalley, Investigator
Marv Everett, Investigator
Tiffeni Wall, Real Estate Education Coordinator
Pam Radzinski, Assistant Board Secretary

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Lance Miller	Bob Brown
Kevin Swenson	Rob Ponte
Chad Ahearn	

The April 21, 2010 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Hancock conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Chair Hancock thanked Ms. Radzinski for filling in for Ms. Christensen, who is out today. He also welcomed back Mr. Johnson from his medical leave.

Approval of Minutes

The Minutes from the March 17, 2010 meeting were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said the Division has begun the spring Caravan, and started off in

Logan yesterday. There were approximately 130 people in attendance, and the presentation was very well received.

FHA is now accepting electronic signatures on sales documents. Director Sabey quoted FHA Commissioner, David Stevens, "This is just the beginning of FHA's commitment to use more electronic documents in our loan approval process. Over time we will be expanding the number and types of documents with electronic signatures which will be acceptable to FHA." Commissioner Houston said they are investigating electronic documents and signatures. He said Arizona has statutes covering the use of electronic documents and media. Director Sabey said we do have an Electronic Transactions Act, and we will see if there need to be any additions.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in March the Division received 50 complaints; screened 14 complaints; opened 6 cases; closed 11 cases; leaving the total number of real estate case at 78.

There are two stipulations to review this month. Both of the investigators involved are present today (Mr. Kagie and Mr. Smalley), in case the Commission has any questions about the stipulations.

Stipulations for Review:

Spencer J. Lindahl
Bradley R. Lancaster

Mr. Johnson said the Caravan was fun in Logan and the group was very receptive to the Division. Commissioner Ashton recommended the Division look into holding the Caravan locally, because many of the people he works with wanted to attend in Logan, but it was filled up.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the Caravan next week will be in Layton, then next to Utah County. The statistics aren't available this month, but the report for next month will cover both months.

There was quite a bit of information in the Division's newsletter for the mortgage industry this month. He asked those present today to bear with the Division in the amount of coverage for mortgage instead of real estate or appraisers. Commissioner Tugaw-Madsen asked how many have transitioned on to the new NMLS system, and Mr. Fagergren said currently fewer than 30% have transitioned.

Mr. Fagergren mentioned there were many licensees that approached him on April 1st, to request an exemption from the new 120-hour prelicensing education requirement that went into effect on March 31, 2010. He emphasized that educators must keep their students informed, and constantly remind them if necessary, about changes in education. Some of the educators didn't make it very

clear that not only did students have to complete their education by the March 31, 2010 deadline, but they must be completely licensed by that date as well. After talking to several students, Mr. Fagergren found that there were a couple of schools that didn't stress the licensing deadline.

Mr. Fagergren said that Pearson Vue is coming to meet with the Division in June to look at the real estate and broker exam. Every question will be reviewed to verify that the tests cover the latest information. We are in need subject matter experts. These people are generally industry experts, educators, and Division staff. He asked the Commission, when they meet in their Executive Session today, to suggest the names of five or six industry individuals who would be willing to take the time from June 7 and 8, 2010.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said everyone was handed out a copy of the new mortgage rules. It has more of a statutory format, so it will be much easier for people to find information. The real estate rules will be reformatted along the same format.

There are several rule amendments that have been worked on in the last few meetings, and they are all in progress and will be ready for review next month.

Commissioner Walker gave a brief report on the ARELLO meeting in Colorado Springs recently. There was a regional meeting prior to the ARELLO conference, and that included the states in our region (Utah, Wyoming, Idaho, Alaska, California, Nevada, and Hawaii). The annual convention is in Alaska, and he encouraged the other Commissioners and Division to try and attend.

Commissioner Walker is Vice-Chair of a work group on new business models that might be coming forth. A big issue was short sales and the licensing issues. The states are looking at the fees being charged by brokerages, minimum service companies and how to handle those. Team licensing and practices was also discussed, and the issue of who is the responsible agent of the team. This is a problem in Utah and throughout the country. Some states are looking at requiring a broker's license for anyone acting as a team leader, as to impose responsibility. Mr. Fagergren said there is also the issue of licensed and unlicensed people being paid by team leaders rather than by the brokers.

Commissioner Walker stated that Idaho and Utah are leaders and on the cutting edge. He has been elected to the Board of Directors for the last two years, and was nominated for Vice-President of Region Four for the coming year. He has encouraged the Commissioners to attend the Commissioner's College during these conventions.

Commissioner Houston said there are a few items of concern in business on the south end of the state. There seems to be a loophole with short sales and bank

approvals. When the approval comes, it comes with conditions which need to be converted into an addendum to make the contract. This isn't happening. When those condition letters are coming, they are being communicated between the buyer and seller. Curtis Bullock, UAR, has encouraged us to put those into an addendum form. Commissioner Houston believes that this could probably be fixed with more education, and does not need any rule changes.

The second concern is one previously discussed concerning electronic signatures, documents and storage. He believes that this is happening fairly quickly and would like to monitor any concerns as they come up. There is no special knowledge required to sign electronically, just internet access. The document won't be fully executed until all the blanks are filled in, and the system just walks you through it. Arizona has written some rules to manage electronic documents, how storage is to be handled, and how to be able to produce documentation to the Division in case of an audit.

Chair Hancock mentioned he had spoken to Ms. Jonsson on giving the Commissioners training on expungements. He gave her an article to review to see if this is something we should be doing.

Mr. Ponte mentioned that Title 46, currently on the books, is the Digital Transactions Act, and it would be very helpful to have the Division have some administrative rules to interpret the state laws already on the books. The Act also speaks to document retention and keeping an electronic format so it can be produced for an audit. Director Sabey stated that this Act also has provisions so agencies may provide further rules pursuant to the Administrative Procedures Act.

Mr. Bob Brown is a recent licensee who came to the meeting as a member of the public to get a feel for what occurs here. Commissioner Walker said it would be nice if more agents took the time to sit down and see what happens.

A motion was made and approved to close the public portion of the meeting at 10:10 a.m.

LICENSE HEARINGS: CLOSED TO PUBLIC

- 10:30 Ian Crow – Application for Renewal
- 1:00 Charles Ekberg – Continuation New Application
Hearing continued to July
- 3:00 Tyson Holbrook – Reinstate
Doug Short, Attorney
Thor Roundy, Attorney
Gary Larsen, Witness

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

Results of Stipulations

Spencer J. Lindahl – Approved

Bradley R. Lancaster – Approved

Mr. Fagergren asked if the Commission had a list of names for the committee to meet with Pearson Vue. The Commissioners said they need a couple of days to send e-mails and make a few calls before they submit their names.

A Motion was made and accepted to adjourn the meeting at 4:44 p.m. The Motion was passed unanimously.