

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

August 18, 2010

MINUTES

DIVISION STAFF PRESENT:

Deanna Sabey, Division 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
Jill Childs, Assistant Board Secretary

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Paul Naylor
Lance Miller
Ron Duyker
Tammy Lund

The August 18, 2010 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Hancock conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Commissioner Walker will be excused from the meeting to day. He is attending a UAR convention in San Diego, CA.

Approval of Minutes

After review of the July 21, 2010 Minutes, an error was found on page 4, where the word "was" should be removed from the sentence. With that correction, a motion was proposed to approve the Minutes with this correction. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Houston, yes; Commissioner Tugaw-Madsen, yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said in the August 2010 edition of the "ARELLO's Boundaries" newsletter the Division of Real Estate was highlighted for its continuing education search engine on our website. The article was very complimentary. Director Sabey encouraged everyone to check out the search engine, because it is a wonderful resource.

Director Sabey attended the Utah Association of Appraiser's symposium on August 10, 2010. It was their annual real estate economic summer symposium. The takeaway from this symposium is that the economy in Utah is improving, albeit slowly. Specifically, the worst is over for the state's homebuilding industries. There are new permits being issued and some positive increases in the homebuilding industry. James Wood, Director of the University of Bureau of Utah Economic and Business Research, has been studying a lot of the statistics and he stated that the downturn has been unlike anything the state has ever seen. In terms of homebuilding activity, it probably reached bottom. For the retail sector, it was not terribly good news, although it shows that vacancies are climbing, but there are some bright spots in our state. One very bright spot is the City Creek Center development going on in the heart of Salt Lake City. Winco Foods has come to the state, and there are a number of "burger wars" keeping the retail sector going.

In the symposium, Tab Cornelison from CB Richard Ellis talked about how the vacancies in Salt Lake County have jumped up to a six-year high to 17.3%. He didn't have many good things to say about the office sector in real estate, just that the trend is moving toward improvement. Multi-family vacancies are up; rents are down. However, we are doing much better in Utah in comparison to other states that surround us. Single-family, which is the biggest percentage of real estate licensees, will be helped by the uptick in homebuilding activity. There is more activity spurred by short-sales and home prices will remain flat. The Governor spoke at the symposium and said the key to helping our real estate industry is jobs. The more jobs we get here, the better our real estate industry will be because people need homes to live in, places for business, and places to shop. There was a recent announcement about Adobe bringing in a number of employees, and today in the paper was an article that Black Diamond has acquired another California company, and they are moving the operations of the company to Utah. That move will create new jobs in Utah.

Chair Hancock said an article in "The Enterprise" showed a California call center announced they are moving to Salt Lake County with approximately 500 employees. In the Ogden area, Hart Ski Company is moving their national headquarters to Ogden, and that is the sixteenth sports and/or ski company that has relocated to Ogden in the last five years. Mayor Godfrey decided to go after this type of industry a few years ago. Scott USA is the largest employer in Ogden, bringing in about 500 employees with them. The residential rental vacancies in Ogden are near zero, whether you look at single-family homes for rent, duplexes or four-plexes, and when you get into the apartment housing category, then there

starts to be very minor vacancy rates. People that have lost homes are being forced into the rentals.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said last month the Division lost a mortgage investigator, Elizabeth Beezley. In the process of trying to fill the vacancy, we managed to find Stuart Engerman. Stuart has been with Consumer Protection as an investigator, and we are glad to have him. He is going to mainly work in the mortgage arena. He also has a little background in investigating real estate, so he will be a good addition to our team.

Mr. Johnson said in July the Division received 34 complaints; screened 26 complaints; opened 6 cases; closed 7 cases; leaving the total number of real estate cases at 68. The backed up screenings are now going to start to show. We have done a very good job in eliminating particularly aged cases, and that has been our concentration. We will now switch our concentration to begin with new open cases.

There is one stipulation to review today: David Johns. He was offered the opportunity to appear today, but declined.

Mr. Johnson said enforcement's main concern continues to be short-sale scams; foreclosure rescue scams; and loan modifications. Most of our serious cases center on those areas and fraud cases.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said everyone will be receiving a flyer in the mail regarding the Division's Instructor Development Workshop. It will be held on October 18-19, 2010 in Park City. The outstanding speakers range from a former Division Director, David Johnson, who is also a broker and attorney. Joe Wrona is also an attorney who will speak about some of the years of experience in civil litigation involving real estate, mortgage, and appraisers. In the morning of the second day there will be presentations from the Division, and in the afternoon there will be two FBI agents speaking about their roles in investigations. Mr. Fagergren said all Commissioners are invited to attend as the Division's guests. This class will be granted 14-hours of continuing education, and depending upon enrollment, may be open to licensees if there are spaces available.

Mr. Fagergren brought up the topic of on-line renewals. The number of licensees using the on-line renewal system has dropped to 62% last month, from the high 70's high in previous months. He is proposing to the Commission that it be made mandatory for all renewals and changes to be completed electronically on the RELMS system by January 1, 2011. Ms. Jonsson can draft a proposed rule to that effect, and it can be published in the next Division newsletter. Commissioner Tugaw-Madsen proposed that perhaps an article clarifying the difference between a plea-in-abeyance and expungement be in the same newsletter, as well.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson asked the Commission to consider a new application from Elizabeth Brower, who does not have either a high school diploma or GED. She left the application for the Commission to review during their Executive Session.

An updated set of mortgage rules was given to each Commissioner. These rules now have us in compliance with NMLS guidelines.

Ms. Jonsson discussed the draft rules of the real estate rules. This is a reorganization of the existing rules to help them match the numbering in our statutes. During the course of examining the current rules, Ms. Jonsson found some rules that were not quite clear, and updated some of the older rules. She went over the proposed changes and deletions, and there were comments and suggestions given by the Commission and those in attendance today.

Ms. Jonsson brought up the topic started in discussion at last months meeting, regarding Division-approved forms on our website. Ms. Lund sent an e-mail to the Division about this topic, and Ms. Jonsson said all the state-approved forms are still on the website and there have been no changes.

Chair Hancock closed this portion of the meeting at 10:25 a.m. for a brief recess before the first hearing.

OPEN TO PUBLIC

LICENSE HEARINGS

10:30 Gordon DeBoer – Appeal of Order

11:00 Jeff. T. Fotheringham – Appeal of Order

A motion was make to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 11:42 a.m. until 12:06 p.m.

A motion was made to go back into public session of the meeting, and it was proposed that the Commission take a break for lunch. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The lunch break was from 12:07 p.m. until 1:00 p.m.

1:00 Kent K. Christensen – Appeal of Order
 Walter F. Budgen, Jr., Attorney

- 1:51 Jonathan E. Allen – Application for Renewal of License
Jeff Allen, Brother
- 2:42 Douglas E. Schwartz – Appeal of Order
- 3:05 Ralph D. Nelson, Jr. – Appeal of Order
Kimberly King-Hanson, Principal Broker
- 3:33 Shane Steven Stark – Application for License

A motion was made to go into Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was closed from 4:10 p.m. until 4:43 p.m.

CLOSED TO PUBLIC

Discussion of stipulation
Discussion of hearings

OPEN TO PUBLIC

Director Sabey read into the record that the stipulation was approved by the Commission, and she has concurred.

Chair Hancock said the application of Elizabeth Brower was approved as to her minimum education requirement.

A motion was made to adjourn the meeting. Chair Hancock, yes; Vice Chair Ashton, yes; Commissioner Tugaw-Madsen, yes; Commissioner Houston, yes. The motion passed and the meeting was adjourned at 4:44 p.m.