

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
November 17, 2010

MINUTES

DIVISION STAFF PRESENT:

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Judi Jensen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Charles Smalley, Investigator
Van Kagie, Investigator

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Irene Kennedy	Linda Leavitt
Shelley Wismer	Karen Post
Tammy Lund	Darrell Catmull
Lance Miller	Chad Ahearn

The November 17, 2010 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Ashton conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

Motion: The Minutes from October 20, 2010 be approved as written. Vote: Chair Ashton, yes; Vice Chair Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Houston, yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey informed the Commission that the Division will have a new Assistant Attorney General for the meeting next month.

Director Sabey brought up the topic of the protection of consumer information.

Real estate agents and brokers are required by statute to protect the consumer's personal information. That statute can be found at Utah Code Annotated 13-44-102. The statute covers any person who conducts business and maintains personal information. The statute defines personal information as the person's first name, or first initial and their last name coupled with one or more of the following: social security number; a financial account number; or driver's license or state identification number. The agent or broker has a responsibility to implement and maintain procedures to safeguard that information. Records that don't have to be maintained any longer must be destroyed.

Safeguards that can be implemented to protect consumer records would be to know what personal information you have; keep only what is needed; secure the information that is kept; and make sure there is a written plan. The Division will be starting a new section of its newsletter regarding legal issues. This topic will be covered in that new section.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said the topic of protecting consumer information is very important. Yesterday, enforcement had to carry through with a case where records had not been properly protected, and our investigators retrieved 79 boxes of files of personal consumer information.

Mr. Johnson reported in the month of October the Division received 66 complaints; screened 15 complaints; opened 48 cases; closed 20 cases; leaving the total number of real estate cases at 171. Many of these cases are from 2006, 2007, and 2008. Often times it has taken this long for someone to complain to the Division. These include complaints from licensees against other licensees. Enforcement is trying to manage these cases and work through them in a timely manner.

There are four stipulations to review today:

Valerie Iorg
Aaron J. Reary
Nathan Michel
Tim N. Tucker

All of the respondents were offered the opportunity to appear today, but declined.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren is off this week and has no report.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson reported the draft rule that was approved last month went through Administration, and we did do some renumbering, but nothing more than that. It was published for comments on Monday (November 15, 2010). It is available to

the public through the Division of Administrative Services website, and you will be able to see a direct link to rules that are open for public comments. The rule number is Rule R162-2(f), and should be ready for a vote in December.

The Division has received some e-mails from Curtis Bullock regarding the square footage issue and disclosures. We will meet with him and work on wording that will work for both the Division and the industry, and hope to have some language for review in December.

Commissioner Hancock asked Director Sabey about the condition of the Division's bill and its status. Director Sabey said she checked on the bill yesterday and was assured that the bill is being worked on.

Vice Chair Tugaw-Madsen brought up the issue of state-approved forms. Ms. Jonsson said the forms are in the rule draft and have not been changed. If there are some the Commission wants to remove, it would require a simple amendment to the rule. These rules should be made effective on December 22, 2010. After a brief discussion, it was decided that a committee be established to review these state approved forms, and give their recommendations to the Commission. Those on the committee will be: Vice Chair Tugaw-Madsen, Commissioner Walker, Tammy Lund, Karen Post, Darrell Catmull, and Ms. Jonsson.

A motion was made to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Ashton, yes; Vice Chair Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Houston, yes. The motion carries. The meeting was closed from 10:15 a.m. until 11:25 a.m.

CLOSED TO PUBLIC

Review of Stipulations

OPEN TO PUBLIC

A motion was made to go back into public session of the meeting. Vote: Chair Ashton, yes; Vice Chair Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Houston, yes. The motion carries.

OPEN TO PUBLIC

LICENSE HEARINGS

11:30 Mark Handy – Application for Renewal
Mr. Handy has asked to be rescheduled for the December meeting, and Director Sabey has approved the change.

A recess was taken for lunch from 11:30 to 12:30 p.m.

12:30 Brook Phipps – Application for Reciprocity
Shae Goodwin, Sales Agent

Karen Ferguson, Sales Agent
Dean Crandall, Principal Broker

A motion was made to enter Executive Session for the sole purpose of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Ashton, yes; Vice Chair Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Houston, yes. The motion carries. The motion passed and the meeting was closed from 2:15 p.m. until 2:30 p.m.

CLOSED TO PUBLIC

Discussion of Hearing
Review of Stipulations

OPEN TO PUBLIC

Results of Stipulations:

Valerie Iorg - Approved
Aaron J. Reary - Approved
Nathan Michel - Approved
Tim N. Tucker – Approved

A motion was made to adjourn the meeting. Vote: Chair Ashton, yes; Vice Chair Tugaw-Madsen, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Houston, yes. The motion carries. The motion passed and the meeting was adjourned at 2:30 p.m.