

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

June 20, 2012

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Jennie Jonsson, Hearing Officer
Judith Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Shane Norris	Paul Naylor
Tammy Lund	Sara Saylor
Peter Christensen	Kevin Swenson
Vern Meyer	Rick Roller
Neil Kaplan	Anneli Smith
John Campos	Carter Maudsley
Janice McClellan	

The June 20, 2012 telephonic meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Madsen conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Elections of Officers

A motion was made to postpone the elections of officers until the Senate confirmation on the new Commissioners. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. The motion carries.

Approval of Minutes

A motion was made to approve the minutes from May 9, 2012 meeting as written. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker,

yes; Commissioner Ashton, yes; Commissioner Hancock, yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart said this is the first in-person meeting for Jeffery Nielsen as the Division's new Chief Investigator.

This is the end of the term for both Chair Tugaw-Madsen and Commissioner Walker. We are still waiting for Senate confirmation for new Commissioners, which could be August.

The Division will soon be hiring two new investigators. Charles Smalley has announced his retirement on August 15, 2012. The position will be posted later this week for a full-time real estate investigator. Travis Cardwell, one of our mortgage investigators, will be leaving the Division at the end of the week. A second position will be posted for a mortgage investigator with preference being given to either appraisal or real estate experience. Both Charles and Travis will be missed.

Director Stewart has been asked several times in various places about the issue of methamphetamine ("meth") testing. The Salt Lake Board of Realtors in their weekly update talked about meth testing and the disclosure of meth. There was also an article on KSL.com this week on the same topic.

Utah law requires that the owner of a home properly disclose whether a home has been used as a meth lab. Real estate licensees also have an obligation to disclose all known defects on a property. Under the Disclosure of Methamphetamine Contaminated Property Act, property owners and landlords must disclose any knowledge that they have about methamphetamine contamination of their property. According to The Salt Lake Tribune, the number of meth homes shut down in Salt Lake County so far this year has risen to 129 properties, nearly surpassing last year's total of 136.

Director Stewart said that Utah was number one in the country for production of meth, and number three for meth labs.

The article on KSL.com suggested hiring a certified decontamination specialist to test the house for meth. Chair Tugaw-Madsen said that in Box Elder County the cost is \$150 per test. Using someone who is on the state-certified list is critical, and there are not many who are on the list in Utah. Chair Tugaw-Madsen said this limits who can perform the test correctly. Director Stewart said it is the buyer's decision as to whether they want to test the property.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported in May the Division received 45 complaints; opened 33 cases; closed 14 cases; leaving the number of real estate cases at 234.

There seems to be a steady increase in complaints. The Division received 15 complaints last week, so the numbers will be increasing. The number of blind ads and advertising violations are near the top of the complaints.

Mr. Nielsen mentioned that many of the complaints received by the Division are anonymous. He said that all complaints we receive are covered under GRAMA and the name of the complainant would not be disclosed.

Stipulations for Review

Drew Klinell

LICENSING/EDUCATION REPORT - Mark Fagergren

Mr. Fagergren said the number of active licensees has remained consistent. There have been 100 licensees who have placed their licenses on inactive status last month.

Stipulations for Review

Tara D. Matthews

Kelly L. Leftwich

John D. Brown

John Crawford Osguthorpe

Lynn C. Fillmore

Jennifer B. Bhatt

Roderic D. Fife

William D. Rowley/National Title Agency

Mr. Fagergren presented a letter to the Commission for their review from an applicant who is asking to have the required continuing education waived. The Commission will review the request during their Executive Session.

Mr. Fagergren wanted to correct a date that he had given in error last month. The exam review will be in August, not July, with Pearson Vue.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson reported the rules previously reviewed have been partially submitted to the Division of Administrative Rules. In the meantime, the Division received comments from people in the property management industry dealing with property management trust accounts. In order to go forward with some of these suggestions, the Division would need to amend some of the sections that were previously reviewed. These sections were held back and will have some suggested language for the Commission's review. The rules that were submitted to the Division of Administrative Rules will be published for comment on July 15, 2012. The comment period will run through mid-August.

Commissioner Hancock asked Ms. Jonsson where to find the rules and regulations

for the Division of Real Estate on-line. Ms. Jonsson said they are located on the Division of Administrative Rules website rules under Commerce. All rules for the Division are found in R-162. Real Estate rules are found under R162-2f. There is an option on the website to download the RTF (Rich Text Format) document, and that will give you a document much like a Word/Word Perfect document.

Commissioner Hancock wanted to recognize Ms. Christensen for being a finalist in the Governor's Award for Excellence in Innovation and Efficiency. Director Stewart mentioned that the award additionally covered others in the licensing section.

Commissioner Hancock asked if any others in the meeting had seen an Accelerated Indemnity Addendum. A major company has prepared a form to be used when making an offer on a property that is expecting multiple offers. The buyer would make an initial offer and file an accelerated addendum on how much they are willing to add over any other arms-length offer up to a certain cap.

Commissioner Ashton commented there is a funeral service today for a past president of the Salt Lake Board of Realtors. Ken Evans recently passed away and Commissioner Ashton wanted to let everyone know that Mr. Evans was one of the great people in the industry.

Ms. Lund commented on an issue that has come up recently. There are some companies/individuals who are advertising properties for rent that are actually listed properties. In addition to requiring personal information on the application, they are also collecting deposits on these properties. Mr. Nielsen said enforcement has run into these complaints from properties being listed on KSL.com and Craig's List. This is a pure scam. Mr. Nielsen has spoken with investigators from the Utah County Attorney's Office, which has had an undercover officer working on this. He recommended that the victim in this scam contact the Internet Crimes Unit with the FBI.

Chair Tugaw-Madsen introduced Peter Christensen who is the new Head Council for the UAR. Mr. Christensen will be attending future Commission meetings in his new position.

CLOSED TO PUBLIC

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. An Executive Session was held from 9:45 a.m. to 10:30 a.m.

OPEN TO PUBLIC

INFORMAL HEARINGS

10:30 January B. Green – Disciplinary Hearing

Rand C. Lunceford, Counsel for Ms. Green
Division Witness: Armand Glick

- 11:30 John W. Campos – Continued Application Hearing
Neil A. Kaplan, Counsel for Mr. Campos
Anneli R. Smith, Counsel for Mr. Campos
- 1:50 T. Carter Maudsley – Application for Renewal
Nicholas Lovato, Friend
- 2:38 Janice McClellan – Application for Renewal
- 3:30 David Vance – Appeal of Order

CLOSED TO PUBLIC

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. An Executive Session was held from 4:19 p.m. to 5:05 p.m.

OPEN TO PUBLIC

Results of Stipulations

Drew Klinell - Approved
Tara D. Matthews - Approved
Kelly L. Leftwich - Approved
John D. Brown - Approved
John Crawford Osguthorpe - Approved
Lynn C. Fillmore - Approved
Jennifer B. Bhatt - Approved
Roderic D. Fife - Approved
William D. Rowley/National Title Agency - Approved

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Walker, yes. The meeting adjourned at 5:05 p.m.