

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

January 16, 2013

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Steinagel, Acting Division Director for Hearing
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Jennie Jonsson, Administrative Law Judge
Judith Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Dave Mecham, Investigator
Manuela Corleto, Investigator
Amber Nielsen, Division Staff
Jill Childs, Division Staff
Kathy Archuleta, Division Staff

COMMISSION MEMBERS PRESENT:

H. Thayne Houston, Chair
Kay R. Ashton, Vice Chair
Gary R. Hancock, Commissioner
Lerron E. Little, Commissioner
Russell K. Booth, Commissioner

GUESTS:

Tammy Lund	Sara Saylor
Kevin Swenson	Shane Norris
Paul Smith	Steve Lee
Ken Bell	Brent Bowen

The January 16, 2013 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Houston conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

A motion was made to approve the minutes from the December 19, 2012 as written. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion has passed.

Review of 2013 Commission Calendar

The Commission reviewed the calendar and found the regularly scheduled date of May 15, 2013 was in conflict with the scheduled NAR meeting. The decision was to move the meeting up one week to May 8, 2013. Ms. Christensen will amend the calendar to reflect this change.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported the Division's bill has not been numbered yet. He met with Representative Froerer last week. Director Stewart called Legislative Research and was told that we should have a draft next week.

Last month Mike Palumbo left the Division and returned to being the Chief Investigator for the Division of Consumer Protection. The Division is interviewing applicants for this position, and the final three candidates came in yesterday for the final interview. Director Stewart will be making an offer to someone this week, and hopefully, they could begin next week.

The Division has been receiving many comments regarding the property management rules. The Division's newsletter has an article regarding the proposed property management rules. Typically, in an article for publication we try to give a small explanation as to what the rule changes mean. The short explanation confused the readers, so a correction to the article will be sent out to give a better explanation of the intent of the property management rules.

Director Stewart handed out a draft of the explanation of the property management rule. There were many comments and questions regarding this draft. Director Stewart said the public comment period will begin on February 1, 2013 and runs for 30 days. Ms. Jonsson said that if the Division wants to pull the rule back from the Department of Administrative Rules, it would have to be before February 1, 2013.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported in December the Division received 14 complaints; opened 40 cases; closed 2 cases; has 9 cases with the AG's office; leaving the total number of real estate cases at 252.

Stipulations for Review:

Micah W. Pearson
Sally Pietsch
George Q. Morris

Each of these respondents was given the opportunity to appear today, and each has declined.

LICENSING/EDUCATION REPORT - Mark Fagergren

Mr. Fagergren is asking for clarity in the property management rules.

Stipulations for Review:

Lance Bush
Dale Hall

Each of these respondents was given the opportunity to appear today, and each has declined.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said the property management rules and other incidental rules that the Commission has approved have been submitted to the Department of Administrative Rules and are scheduled to be published on February 1, 2013.

Mr. Fagergren asked Ms. Jonsson about amending the property management rules. If the Division wanted to pull back the Department of Administrative Rules now, even if it gets published, you can file a "Changed to Proposed Rule" which will push out the effective date, and allows the Division to substitute a new draft for one that already been submitted.

Commissioner Hancock said that Mike Ostermiller had run across a new site called "realtor-complaints.com." Mr. Ostermiller has investigated the site and found it is a site where the public can make comments about the either the satisfaction or dissatisfaction of a realtor. The Utah realtors listed on this all have an "F" rating. In the language, it describes the reason for the "F" ratings are similar to each name listed. It indicates these are not coming from the public. The only way a realtor can get his name removed is to pay money. Mr. Ostermiller and NAR are taking measures to see what can be done about it. Commissioner Hancock will forward a copy of the message to Director Stewart and the Commission.

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. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. An Executive Session was held from 9:50 a.m. to 10:07 a.m.

OPEN TO PUBLIC

The following Stipulations were approved by the Commission with the concurrence of the Director:

Micah W. Pearson - Approved
Sally Pietsch - Approved
George Q. Morris - Approved
Lance Bush - Approved
Dale Hall - Approved

OPEN TO PUBLIC

INFORMAL HEARING:

10:30 Jay R. Rice – Application for License
Director Stewart has recused himself from this hearing.
Acting Director Mark Steinagel will be Acting Director for this hearing.
Commissioner Booth said that he knows Mr. Rice. The Division and
Mr. Rice have no issue with Commissioner Booth remaining.

Respondent's Witnesses:

Gary Thorpe, Attorney
Steven B. Lee, Principal Broker
Brent Bowen
Florene O. Stewart
Kenneth E. Bell, Principal Broker
Mark Fagergren, Division of Real Estate

Division's Witnesses:

Kenneth Barton, Division of Securities/Examiner Compliance
Mark Fagergren, Director of Education/Licensing

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. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. An Executive Session was held from 1:31 p.m. to 1:58 p.m.

OPEN TO PUBLIC

A motion was made to adjourn the meeting. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The meeting adjourned at 1:58 p.m.