

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

July 21, 2011

### **MINUTES**

#### DIVISION STAFF PRESENT:

Thad Levar, Interim Division Director  
Kent Nelson, Chief Investigator  
Dee Johnson, Assistant Chief Investigator  
Mark Fagergren, Licensing/Education Manager  
Jennie Jonsson, Hearing Officer  
Xanna Hardman, Assistant Attorney General  
Tiffeni Wall, Real Estate Education Coordinator  
Jill Childs, Assistant Board Secretary  
Kathy Archuleta, Division Staff

#### COMMISSION MEMBERS PRESENT:

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

#### GUESTS:

Lance Miller	Jack Marinello
Sara Saylor	Curtis Bullock
Kevin Swenson	Chad Ahearn
Linda Leavitt	Toni Hawkins
Ron Duyker	Tilden Swallow

The July 21, 2011 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Madsen conducting.

Ms. Christensen was out ill today, and Ms. Childs will be acting as Board Secretary for this meeting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

A motion was made to approve the minutes from the June 20, 2011 meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes; Commissioner Walker, yes. Motion passes.

## **DIVISION REPORTS**

### DIRECTOR'S REPORT – Thad Levar

Interim Director Levar said that Director Sabey has decided to pursue other opportunities in the private sector. The Division will be moving forward, and Mr. Levar will be serving as the Interim Director for the Division while we search for a permanent Director. He anticipates that there will be an announcement by the time of the next Real Estate Commission meeting.

By way of introduction, Interim Director Levar said that Kent Nelson has for many years been the Chief Investigator with the Division of Consumer Protection, and has now been moved over to the Division of Real Estate. He will now be the Chief Investigator for the Division of Real Estate.

Interim Director Levar has reviewed some of the minutes and issues that have been discussed in previous meetings. There has been discussion on potential legislation on the issues of inactive license CE and reporting a bankruptcy to the Division. Those are issues that will be appropriate to continue looking at, and as we work on getting a permanent Director, these can be discussed again.

The Commission has in front of them a letter from Darrell Catmull. This issue is not on the agenda today, but he has submitted a letter to be passed out for review. If the Commissioners choose to go into that issue at a future meeting, it will be up to their discretion.

### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in June the Division received 48 complaints; screened 6 complaints; opened 4 cases; closed 18 cases; leaving the total number of real estate cases at 141.

#### Stipulations for Review:

Sophie Jones  
Brent K. Larsen  
Maria B. Serbina  
Sergio Avila  
Jeffrey W. Smith  
Dennis L. Knowley  
Smith T. Ballstaedt

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

### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics for June show a decline of 151 sales agents as compared to last month, which is discouraging.

Mr. Fagergren brought several items to the Commission's attention:

1. Legislation recently passed in New Mexico increased penalties for unlicensed activity and repealed an exemption to the CE requirement.
2. A New York appellate court found that a person may not circumvent licensing requirements by claiming to be a "finder" rather than a "broker" in a sales transaction.
3. Short sale fraud continues to be a problem across the country. CoreLogic recently stated that California, Arizona, Colorado, and Florida are the top states for short sale fraud. These states are also the states with the highest rate of "suspicious" short sale transactions. "Suspicious" transactions are defined by property selling the next day for at least \$50,000 in profit with no change in the market.
4. The U.S. Supreme Court recently heard a case where firefighters claimed that a professional exam was biased against minorities. The court found no bias in the specific test at issue, but this is something that all regulators must keep in mind when creating licensing exams.

#### COMMISSION AND INDUSTRY ISSUES

##### Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said there are four rule amendments that have been published for about three weeks now. They have not quite come through the public comment period, and to date, we have not received any public comments on them. These rules are: R162-2f-102, definition section; R162-2f-205, registration of an entity; R162-2f-401(a), disclosure of square footage; and R162-2f-403, trust accounts. The public comment period will end on August 1, 2011, and the first possible effective date will be August 8, 2011. The Commission has decided to wait for a vote until the next meeting on August 10, 2011.

There is an additional rule out for public comment, R162-2f-407, administrative proceedings rule, and so far there have been no comments received. The public comment period will end on August 15, 2011.

#### **CLOSED TO PUBLIC**

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 Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes; Commissioner Walker, yes. Motion passes.

#### **OPEN TO PUBLIC**

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

yes; Commissioner Walker, yes. Motion passes.

Results of Stipulations:

Sophie Jones - Approved  
Brent K. Larsen - Approved  
Maria B. Serbina - Approved  
Sergio Avila - Approved  
Jeffrey W. Smith - Approved  
Dennis L. Knowley - Approved  
Smith T. Ballstaedt – Approved

A brief recess was taken until the first hearing.

**OPEN TO PUBLIC**

INFORMAL HEARINGS:

10:30 Aidarene Kioa – Application for License  
  
11:00 Eric Romero – Application for License  
  
11:30 David Metten – Application for License  
Mr. Metten has withdrawn his application for a license.  
  
1:00 Karlie Belnap – Application for License  
  
2:00 Tilden Swallow – Application for License  
  
3:00 Toni Hawkins – Application for Renewal

**CLOSED TO PUBLIC**

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 Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes; Commissioner Walker, yes. Motion passes.

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Ashton, yes; Commissioner Hancock, yes; Commissioner Walker, yes. Motion passes. The meeting adjourned at 4:00 p.m.