

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

October 19, 2011

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Licensing/Education Director
Kent Nelson, Chief Investigator
Jennie Jonsson, Hearing Officer
Xanna Hardman, Assistant Attorney General
Judith Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Van Kagie, Investigator
Jill Childs, Division Staff
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:

Linda Leavitt
Rob Ponte
Jack Marinello
Kevin Swenson
Paul Naylor

The October 19, 2011 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Tugaw-Masden conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

A motion was made to approve the minutes from the September 21, 2011 meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker, yes; Commissioner Hancock, yes; Commissioner Ashton, yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart announced that the Division will have a new "live chat" function on its website within the next two weeks. We believe this will give us other avenues to communicate with licensees and the public.

An outline of the proposed legislative changes to the statutes was sent out to the Commissioners. Last month Commissioner Hancock and Commissioner Walker sent comments to Director Stewart. He will be meeting with Department Director Giani and Deputy Director Levar at the end of the month to review all the comments and concerns that we have received, and will finalize what the Division will submit to this legislative session.

ENFORCEMENT REPORT – Kent Nelson

Mr. Nelson reported in the month of September the Division received 34 complaints; no complaints are waiting to be screened; opened 51 cases; closed 48 cases; leaving the total number of open cases at 253.

Mr. Nelson announced that the Division has five separate major fraud cases that we are investigating. Several of these are the ones that have been turned over to other agencies that were not being worked on quickly, so the Division has taken those cases back. Mr. Nelson and Mr. Mecham met with the Attorney General's office at the end of last week, and paperwork is being done on criminal indictments on two individuals for major fraud cases. Arrest warrants will probably go out next week. One of these cases is a property manager licensee, and the other is a mortgage broker. There are three other cases we are issuing subpoenas on and anticipate fraud charges will be coming in the next month or two.

Stipulations for Review:

Steven R. Vanderlaan
Charles O'Brien, Jr.
Michael J. Harris
Carl F. Hart
Ryan D. Mott
Dean R. Himmelman
Chelsae M. Dixon
Deby Bauer

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

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said that he and Director Stewart returned last night from the AARO convention. He will touch on a few points of interest during his report.

There is a continuing decline in licensing numbers. It is distressing to us to see our licensees still struggling in their businesses.

In following up on Director Stewart's announcement of our new "live chat" feature, the Division doesn't have staff designated exclusively to answering requests. We are approaching this cautiously to see how it impacts our licensing staff, and also how much time is spent on carrying on conversations with people while at the same time fulfill their other licensing duties. Various members of the licensing staff will be assigned to respond to Live Chat conversations.

The Division's Instructor Development Workshop will be held on Monday, October 24 through Tuesday, October 25, 2011 in Park City. Mark Barker, a national educator from Missouri, will demonstrate professional teaching techniques. On Tuesday the Chairs from all three Commissions will be on a panel to answer questions. As of today, there are 113 people with reservations.

Mr. Fagergren touched on a few points of interest he learned while attending the AARO conference. The General Accounting Office ("GAO") of the government did a study of AMCs and noted some areas of concern they want to see further explored. The criterion used for selecting appraisers by AMCs was something that concerned the GAO. Also of concern was the review of completed appraisals, and minimum qualifications of appraisal reviewers.

A representative from the Appraisal Institute, Rick Borgess, made a recommendation to have a system in place similar to the NMLS. A representative from NMLS, Tim Doyle, spoke at this conference and about the positive components of NMLS. Mr. Doyle spoke of huge reduction in costs. However, the Division has seen a large increase in costs and requirements because of NMLS. Mr. Borgess talked about a proposal to implement an Appraisal License and Portal System ("ALPS").

A comment made by Tim O'Bryan of RELS Valuation was about appraisers leaving the profession and new appraisers not entering the industry. Especially in a state like Utah where there are rural areas, there are already problems with time delays and even difficulty getting an appraisal done. In a chart used during Mr. O'Bryan's presentation the numbers showed in 2008 that over the next ten years 42% of appraisers will have retired from the industry.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Jennie Jonsson

Ms. Jonsson said the rule amendment the Commission considered last month, R162-2f-202(b), has been approved by the Administration of the Department of Commerce and accepted by the Division of Administrative Rules. It was published on October 15, 2011. The public comment period will run through November 14, 2011 and the first possible effective date will be November 21, 2011.

Chair Tugaw-Madsen said she will have the report on lead-based paint for the Division's and Commission's review.

Director Stewart gave a summary of his and Mr. Nelson's recent attendance at the ARELLO conference. He said it was a great experience to meet with the Directors and Commissioners from other states. Commissioner Walker attended the meeting on his own, and was pleased to see representatives from Utah in attendance. He said that the Commissioner's College that was held after the regular meetings is a great opportunity for new Commissioners to be trained in going through the hearing processes. It shows how different Commissions and states handle problems that occur outside of Utah. Commissioner Walker encouraged everyone to look at the ARELLO website and review the committee reports and lists of all the ARELLO members across the country. He recommended that the investigators get a chance to attend the Investigator Clinic and workshops that are available.

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 Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. Motion carries. Executive Session was held from 9:50 a.m. to 11:10 p.m.

OPEN TO PUBLIC

INFORMAL HEARINGS:

1:03 Terrance Hazlehurst – Application for License
Division Witness: Jennie Jonsson

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 Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. Motion carries. Executive Session was held from 2:01 p.m. to 2:20 p.m.

OPEN TO PUBLIC

Results of Stipulations

Steven R. Vanderlaan - Approved
Charles O'Brien, Jr. - Approved
Michael J. Harris - Rejected
Carl F. Hart - Approved
Ryan D. Mott - Rejected
Dean R. Himmelman - Approved
Chelsae M. Dixon - Approved
Deby Bauer - Approved

A motion was made to adjourn the meeting. Vote: Chair Tugaw-Madsen, yes; Vice Chair Houston, yes; Commissioner Walker, yes; Commissioner Ashton, yes; Commissioner Hancock, yes. Motion carries. The meeting was adjourned at 2:20 p.m.