

UTAH REAL ESTATE COMMISSION

Heber M. Wells Building

Room 210

9:00 a.m.

October 15, 2014

MINUTES

DIVISION STAFF PRESENT

- Jonathan Stewart, Division Director
- Mark Fagergren, Education/Licensing Director
- Jeffery Nielsen, Chief Investigator
- Jennie Jonsson, Hearing Officer
- Elizabeth Harris, Assistant Attorney General
- Renda Christensen, Board Secretary
- Mykah Travis, Real Estate Education Coordinator
- Van Kagie, Investigator
- John Bickmore, Investigator
- Kadee Wright, Investigator
- Mark Schaerrer, Investigator
- Mykah Travis, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT

- Kay R. Ashton, Chair
- Russell K. Booth, Vice Chair
- Lerron E. Little, Commissioner
- Calvin Musselman, Commissioner

Commissioner Chapman was excused from the meeting today.
 Justin Barney is excused from this meeting today because of an injury.

GUESTS

- | | |
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| Peter Stevens | Shane Norris |
| Peter Christensen | Kevin Swenson |
| Dan Naylor | Susan Aguilar |
| Brian Swan | Cressie Larson |

The meeting on October 15, 2014 of the Real Estate Commission began at 9:00 a.m. with Chair Ashton conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Elections for New Officers for 2014-2015

Nominations were accepted and voted on for the positions of Chair and Vice Chair. The new Chair will be Russell K. Booth, and the Vice Chair will be Lerron E. Little.

Approval of Minutes – A motion to approve the minutes from the September 17, 2014

meeting was made, seconded, and voted on. Vote: Chair Ashton, yes; Vice Chair Booth, yes; Commissioner Little, yes; Commissioner Musselman; yes. The motion passed and the minutes were approved.

DIVISION REPORTS

Director's Report - Jonathan Stewart

Director Stewart reported Justin Barney has had an accident last week and he has broken his back. He has had surgery and the Doctors have said that at the very best he will be able to come back to work on a part-time basis in two weeks. Director Stewart visited him in the hospital on Thursday, and Mr. Barney seemed to be doing well, but still was not mobile. We hope that he recovers well. Ms. Jonsson has held the position before Mr. Barney and has offered to fill in until Mr. Barney returns.

Director Stewart thanked Chair Ashton for his continued service as we wait for a new Commissioner. The Division has submitted a name two months ago, and we are still waiting for the Governor's office and the Senate confirmation. We won't know if the name has been accepted until everything has been done.

The Forms Committee has been started with Commissioner Booth, Peter Christensen, and Ms. Harris, agreeing to sit on the Committee. Director Stewart is considering adding at least one person from the Division and another person from the public, possibly an attorney dealing in real estate transactions. Chair Ashton suggested former Commissioner Gary Hancock to serve on the Committee. Director Stewart had asked Mr. Barney to Chair the Committee, and now with his injury, it may delay the process.

Director Stewart discussed proposed changes to the statutes that will be submitted to the legislature. The first is to add the definition of "owner" under 61-2f-102. The reason for adding the definition is to close a loophole where individuals are getting around licensing requirements, bringing two parties together to purchase a property. The Division will bring back a definition to the Commission before legislation begins.

The second proposed change will be in 61-2f-202-(1)(a)(vi) add "or real estate brokerage." Employees of a property management company or real estate brokerage should be exempt from licensure if they are performing activities described in rule for unlicensed assistants.

Chair Ashton brought up a topic the Division might consider adding to the list of proposed legislative changes. Years ago the legislature in the State of Utah passed a law regarding servicing of mortgage loans which required servicers of mortgage loans to pay interest on impound or escrow accounts. The unintended consequence is that everybody in Utah pays slightly higher interest rates. We are in an environment now where interest rates that are paid on savings accounts are less than one percent, it penalizes borrowers much more to pay that higher interest rate than to get the interest benefit on an escrow impound account. Chair Ashton believes the Code was 70c. He suggested bringing this item before the Mortgage Commission for discussion.

Director Stewart said two potential rule changes were discussed in the Division. The first is regarding placing liens on properties, and the appropriate way that is done. The Division would like to place in rule something that prohibits placing a lien on a property unless the proper steps are taken. The second proposed rule change would be it is unprofessional conduct for a broker to pay an agent that was not affiliated with them at the time of the transaction. Agents from different brokerages are forming teams, and this causes complications as to which broker is supervising and how payments are being made.

Discussion: Title & Escrow Meeting, HUD's Mortgage Letter – Peter Stevens, Jones Waldo

Mr. Stevens handed out three documents for this discussion. This is about flipping (HUD's June 8, 2006 letter). This is about buying a house, fixing it up, and selling it later for an exaggerated price. In those conditions, everyone loses. The seller sells for less; the buyer buys for more; the lender lends on the artificially inflated appraisal. Then when there is a failure, there is a foreclosure, and the property values go down.

If someone is going to be involved in this type of transaction, there is the Simultaneous Closing Addendum to the REPC that they should use (Insurance Department's Bulletin 2007-1). While the real estate industry is pushing for full disclosure, the title industry is trying to get away from any type of disclosure. A copy of the new rule (R592, Insurance, Title and Escrow Commission) says that the funds to complete the initial sale to the middle buyer/seller need to be separate in this transaction, and leaves all discretion with the title agent. If something isn't done about this, there will be adverse effects. Mr. Stevens encourages this Commission that the agents must use the Simultaneous Closing Addendum if they are involved in one of these transactions, and to encourage the Insurance Department to not pass such a benign rule that directs their agents to what they can and can not do.

There is a hearing on Monday, October 20, 2014, and after there will be a public comment period.

Enforcement Report – Jeffery Nielsen

Mr. Nielsen reported in September the Division received 48 new complaints; opened 20 cases; closed 3 cases from the Attorney General's list; closed 16 cases; leaving 261 cases as the total amount of open cases.

Stipulations for Review:

Robert D. Kelly
Heidi Skinner

Both of these individuals were given the opportunity to address the Commission but have chosen not to appear.

Education/Licensing Report - Mark Fagergren

Mr. Fagergren reported the numbers for September have remained stable.

The Instructor Development Workshop will be held on October 22-23, 2014 at the Park City Marriott, with Carol Murray as the presenter.

The Division has been notified by State Purchasing that we must send out a Request for Proposal regarding our testing vendor. The testing vendor also banks the testing and continuing education into the RELMS system, and the live scan fingerprinting. The State is motivated by low cost, so we should be notified by next week if we can keep our vendor.

Stipulations for Review:

Matthew Nielson
Christopher Farley

Both of these individuals were given the opportunity to address the Commission but have chosen not to appear.

COMMISSION AND INDUSTRY ISSUES

Updates on Rules – Jennie Jonsson

Ms. Jonsson has no new rule updates for this meeting.

Brad Lewis has requested an extension on his fine payments. However, since his request, he has paid the fine in full.

Stipulations for Review:

Leanne Jensen
Scott Weilacher

Both of these individuals were given the opportunity to address the Commission but have chosen not to appear.

INFORMAL HEARING

10:21 Wayne Briggs - Application for License

Division Witness: Renda Christensen

A brief recess was taken from 10:30 a.m. to review Mr. Briggs exhibits and commenced again at 10:40 p.m.

A brief recess was taken from 12:02 p.m. and commenced again at 12:50 p.m.

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 Ashton, yes; Vice Chair Booth, yes; Commissioner Little, yes; Commissioner Musselman, yes. The motion carries. An Executive Session was held from 12:18 p.m.

to 12:50 p.m.

CLOSED TO PUBLIC

Results of Stipulations

Robert D. Kelly – Approved with concurrence from the Director

Heidi Skinner – Approved with concurrence from the Director

Matthew Nielson – Approved with concurrence from the Director

Christopher Farley – Approved with concurrence from the Director

Leanne Jensen – Approved with concurrence from the Director

Scott Weilacher – Approved with concurrence from the Director

Mr. Briggs will be notified by mail as to the outcome of his hearing.

A made a motion to adjourn the meeting. The motion was seconded. The meeting adjourned at 12:51 p.m.