

UTAH HOUSING CORPORATION
Minutes of Regular Meeting
February 27, 2014

PARTICIPANTS

Trustees:

Douglas DeFries, Chair
Kay Ashton, Vice Chair
Mark Cohen, Trustee
Lucy Delgadillo, Trustee
Richard Ellis, Trustee
Lerron Little, Trustee
Robert Whatcott, Trustee
Edward Leary, Trustee

Staff:

Grant Whitaker, UHC President and CEO
Cleon Butterfield, UHC Senior Vice President and CFO
Jonathan Hanks, UHC Senior Vice President and COO
Kathy Crockett, UHC Executive Assistant

Trustees of the Utah Housing Corporation (UHC or Utah Housing) UHC staff, and guests met in a Regular Meeting on February 27, 2014 at 1:30 PM MDT in person and via teleconference at the offices of Utah Housing Corporation, 2479 S Lake Park Blvd, West Valley City, UT.

The meeting was called to order by Chair, Doug DeFries. The Chair then determined for the record that a quorum of Trustees was present, as follows:

Douglas DeFries, Chair
Kay Ashton, Vice Chair (via teleconference)
Mark Cohen, Trustee (via teleconference)
Lucy Delgadillo, Trustee (via teleconference)
Richard Ellis, Trustee
Lerron Little, Trustee (via teleconference)
Robert Whatcott, Trustee (via teleconference)
Edward Leary, Trustee (via teleconference)

The Chair excused the following Trustees:

Jon Pierpont, Trustee

The President then reported that the Notice of the Regular Meeting was given to all Trustees of Utah Housing and that material addressing the agenda items had been distributed to the Trustees in advance of the meeting.

The President then acknowledged a Verification of Giving Notice, evidencing the giving of not less than 24 hours public notice of the date, time, place and summary of agenda of the Utah Housing Corporation Special Meeting in compliance with the requirements of the Open and Public Meetings Act, Section 52-4-202, Utah Code Annotated 1953, as amended; together with the form of Notice of Special Meeting referred to therein; and also the required public notice of the 2014 Annual Meeting Schedule of Utah Housing will be entered into the Minutes.

Mr. DeFries began by welcoming the participating Trustees, staff and guests.

The Chair called for the first agenda item.

1. Approval of the Minutes of December 12, 2013, Special Meeting

The President had provided each Trustee with a copy of the written minutes of the December 12, 2013, Special Meeting, and the Trustees acknowledged they had sufficient time to review these minutes. Mr. DeFries asked for any discussion on the December 12, 2013 minutes as presented.

Following any discussion, the Chair called for a motion.

**MOTION: TO APPROVE THE WRITTEN MINUTES OF THE
REGULAR MEETING OF DECEMBER 12, 2013.**

**Made by: Richard Ellis
Seconded by: Lerron Little
Vote: Unanimous approval**

The Chair called for the next agenda item.

2. Resolution 2014-01 Amending Utah Housing Corporation Administrative Rules

RESOLUTION 2014-01

A RESOLUTION UTAH HOUSING CORPORATION AMENDING ADMINISTRATIVE RULES OF THE CORPORATION; AND RELATED MATTERS.

Mr. DeFries began by introducing Resolution 2014-01 which amends one of Utah Housing’s Administrative Rules regarding Adjudicative Proceedings. Mr. DeFries asked Grant Whitaker to begin discussions.

Mr. Whitaker explained that this resolution amends Utah Housing’s Administrative Rules adding rules for Formal Adjudicative proceedings. Utah Housing presently has a Rule for Informal Adjudicative proceedings, but not for Formal proceedings. The only proceeding conducted by Utah Housing was conducted as a Formal process because it fit the situation better, and that option was available to us. The proceeding was conducted under generic Formal Proceeding guidelines, but having Rules that are tailored to UHC’s needs will be better, and they will be published as a public record.

State rules are the equivalent of federal regulations; one step down from the law but having the same effect of the law. State law requires each entity including UHC to adopt Rules. The Rulemaking Act requires state agencies to adopt rules or amend rules when an agency action

“authorizes, requires, or prohibits an action; provides or prohibits a material benefit; applies to a class of persons or another agency; and is explicitly or implicitly authorized by statute.”

Mr. Whitaker added that UHC’s legislation permits us to adopt rules for regulation of its affairs and the conduct of its business. Rules adopted by the Board are considered “Proposed Rules” and then published in the “State Bulletin” which is the equivalent of the Federal Register. During the required comment period, if any substantive comments are made by the public, UHC staff will amend the rules and bring them to the Board for their approval at a public meeting or if no substantive comments are made, staff will provide notice through the state process that the adopted rules are the “Final Rules”.

Mr. Whitaker concluded by recommending that the Board approve Resolution 2014-01.

Questions and discussion ensued. Lerron Little asked how is it determined whether proceedings are Formal or Informal. Mr. Whitaker responded that UHC has had only one adjudicative proceeding in its thirty eight year life, and that occurred only because a tax credit developer was unwilling to accept a determination made by the President regarding an appeal as provided in the Qualified Allocation Plan. In that case, UHC relied on the recommendation of its attorneys and conducted the proceeding as a Formal Proceeding utilizing standard Formal Adjudicative Proceeding Rules. It was following that proceeding that our attorneys recommended adopting our own Rules for Formal Proceedings that are tailored to meet UHC’s specific needs.

Mr. Little then asked what changes are there when we go from an Informal to a Formal Proceeding? Do the meeting laws change? Does GRAMA (Government Records Access and Management Act) come into play? Mr. Whitaker replied that there would most likely be discovery permitted in a Formal Proceeding and that if the determination in a Formal Proceeding is appealed by the other party, it must appeal to the state’s Appeals Court who will examine no new evidence but will rule whether the Formal Proceeding was conducted in a fair and impartial manner. An Informal Proceeding may be appealed to District Court and new arguments and new evidence may be offered up, dragging it out longer and probably costing more in expenses. Mr. Whitaker noted that UHC is subject to GRAMA and that its Rules regarding GRAMA requests have been adopted by the Board and published as Final Rules. Mr. Little then asked who makes the decision for a Formal or Informal process. Mr. Whitaker responded that UHC’s President would make that determination.

Mr. DeFries noted that this rules allows the Corporation to maintain control of its hearing process.

Mr. Ellis then asked if the rule needs clarification as to when a Formal Hearing vs. an Informal Hearing would be held and a description of circumstances that would be applicable to determine whether it would be a Formal or Informal process. Is there additional guidance in the statute?

Mr. Whitaker responded it is dependent on the opposing entity and the circumstances. Because appeals could be made from a variety of persons such as a participating lender, a developer, a borrower and so forth, for any number of reasons it may be best to make the determination at the time of occurrence as there is no way to describe all the circumstances for making that determination in advance.

Mr. Ellis suggested that from the other party's standpoint, the rule lacks a description of what the determination would be based on. Mr. Hanks pointed out that under section 6-4(1) a party who has been denied a request for a Formal Proceeding may request a hearing to appeal that denial.

Mr. Whitaker responded that there is also an opportunity for preliminary discussion with the opposing party that may help to iron out those issues and may enable a resolution without a proceeding. Section 6-4(3) of the Proposed Rule addresses the procedure to follow in that respect. He noted that the one proceeding conducted two years ago came after preliminary discussions with both sides and their counsel for about 1-1/2 hours. Those discussions did not result in the matter being resolved and the dispute went to the Formal Proceeding.

Mr. DeFries stated that he agreed that the independence of the President to settle a matter is valid, as demonstrated in the one case we had two years ago.

Mr. Little then continued that the effort to clarify the distinction of the Formal or Informal Proceeding in the Rule itself can possibly back-fire when an opposing party makes a request for a specific type of proceeding simply to make the process more difficult for UHC. He said that he has observed those types of incidents in the Real Estate Commission.

Mr. DeFries then asked if there were any additional comments or discussion from the Board, and following any additional discussion asked for a motion to adopt the resolution.

MOTION: TO APPROVE RESOLUTION 2014-01 AMENDING UTAH HOUSING CORPORATION ADMINISTRATIVE RULES

Made by: Kay Ashton
Seconded by: Mark Cohen

Mr. DeFries asked for disclosures of potential conflicts before the vote was taken. Each Trustee was called on and they responded as follows:

Douglas DeFries	Yes, as filed with UHC
Kay Ashton	Yes, as filed with UHC
Mark Cohen	Yes, as filed with UHC
Lucy Delgadillo	No interest to disclose
Richard Ellis	No interest to disclose
Lerron Little	Yes, as filed with UHC
Robert Whatcott	No interest to disclose
Edward Leary	No interest to disclose

The President confirmed that each of those Trustees who so indicated such interest had a Disclosure of Potential Interest statement on file with Utah Housing that it includes current pertinent information regarding his or her potential interests and that those statements are available for inspection and would be incorporated into the minutes by reference.

Following further discussion, Mr. DeFries called for a vote in this matter:

Vote: Approved Unanimously

The Chair called for the next agenda item.

3. Resolution 2014-02 Establishing Procedures for Trustee Oversight of CFPB Compliance Mandates

RESOLUTION 2014-02

A RESOLUTION OF THE UTAH HOUSING CORPORATION (“UHC”) ESTABLISHING A POLICY STATEMENT WITH REGARD TO TRUSTEE OVERSIGHT OF UHC'S COMPLIANCE WITH FEDERAL AND STATE CONSUMER FINANCIAL PROTECTION LAWS, RULES, REGULATIONS, AND ORDERS WITH REGARD TO SINGLE FAMILY LOAN PRODUCTS AND THE SUBSEQUENT SERVICING OF SUCH PRODUCTS; AND THE TAKING OF ALL OTHER ACTIONS NECESSARY AS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

Mr. DeFries began by introducing Resolution 2014-02 which is in regard to Federal regulations under the Dodd Frank bill and the newly created CFPB. Mr. DeFries asked Grant Whitaker to begin discussions.

Mr. Whitaker began with explaining that the purpose of the resolution is to establish the Board’s policy directive for UHC to implement a Compliance Management System as required by the Consumer Financial Protection Bureau’s (CFPB) manual which follows up to the Dodd Frank bill. This resolution demonstrates the Board’s commitment:

1. To set clear expectations about compliance efforts within UHC as well as with its 3rd party service providers;
2. To adopt clear policies and procedures regarding such efforts;
3. To support management in hiring qualified individuals to manage UHC’s compliance efforts and the allocation of sufficient resources to accomplish such duties;
4. To ensure consumer compliance issues and related risks of harm to consumers and adequately monitored and handled throughout product development marketing and servicing; and
5. To review recurring reports regarding compliance risks, issues, and resolutions.

He described how the Chair has appointed a Compliance Committee in conformance with UHC's Bylaws, consisting of the same members as the Housing Committee. Kay Ashton, will be serving as Chair of the Compliance Committee and Lucy Delgadillo and Lerron Little will also serve on both committees. These members will serve much like the Tax Credit Committee with more frequent and in depth review of these matters. The committee can have a better handle on more of the details than the whole Board can have; and then report to the Board at its open meetings. Mr. Whitaker reported that a 30 plus year veteran of mortgage lending has been hired as the Compliance Manager, reporting to Jonathan Hanks. The Compliance Manager will take an in depth role of studying the CFPB's manual and regulations as they are issued. He will develop UHC's Compliance Management System and Compliance Program.

Kay Ashton gave a update on the first Compliance Committee's meeting that was held the previous week. He reported that he understood that the Dodd Frank legislation was close to 2,000 pages, and among other things it created the CFPB. The CFPB rule making effort has begun with many of the rules having an effective date of January 10, 2014. Close to 1,000 pages in their rule making process have been produced thus far and there is still much work needed to complete the new rules. As a result of the creation of CFPB, numerous financial institutions have increased their compliance staff. Fortunately for UHC being a housing finance agency it is exempt from some of the provisions of the new rules, but is subject to others. Housing finance agencies are exempt from most of the Qualified Mortgage (QM) and Ability to Repay (ATR) rules and some of the servicing rules that apply to others, but CFPB has indicated that all mortgage financial agencies will be audited at some point. UHC will still be subject to audits at some point, but is probably low on the priority list. It is best to be prepared and make sure that UHC is compliant and customer service issues are resolved in an efficient and timely manner.

Jonathan Hanks added additional information regarding the exemptions. As the CFPB went through their rule making process, they worked with National Council of State Housing Agencies or NCSHA. When they came out with their final rule relative to ATR and QM, they issued statements that HFA's have historically employed underwriting criteria that are beneficial to a low to moderate income buyers, where in general underwriting criteria for all the HFA's have ensured that those borrowers have the ability to repay. CFPB stated that "the Bureau finds that coverage under the ATR a qualified mortgage provides little if any meaningful benefit to consumers given the nature of credit extended through HFAs." On the servicing side, we are exempt from some rules; however, one new rule states that servicer provide the borrower with a monthly statement. UHC implemented this practice 6 to 7 years ago.

Another item that is beneficial to Utah Housing is the CFPB manual states that the scope of the compliance system should be based on the size and complexity of the organization, and that CFPB views HFAs as small organizations. Because they only offer fixed rate loans, they are also deemed not to be complex organizations. As we develop new loan programs, it is our responsibility to insure that we are complying with the requirements to identify potential consumer issues. We will talk more about the new Mortgage Loan Certificate Program at the upcoming April 2014 Board meeting. The goal is to have proposed Policies and Procedures for the Board's approval at the next Board meeting in April. In addition, we will provide training to the Board at the scheduled Board retreat in June 2014.

The President confirmed that each of those Trustees who so indicated such interest had a Disclosure of Potential Interest statement on file with Utah Housing, that it includes current pertinent information regarding his or her potential interests and that those statements are available for inspection and would be incorporated into the minutes by reference.

Mr. DeFries called for a vote in this matter:

Vote: Approved Unanimously

The Chair called for the next agenda item.

4. Other Items of Business

Cleon Butterfield and Jonathan Hanks reviewed the operating reports to the satisfaction of the Trustees.

Executive Session

Chairman DeFries called for an Executive Session in order to discuss litigation UHC is involved in. The Trustees all favored the closed meeting.

Following the closed session The Chair announced that the meeting was adjourned.