

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 250

9:00 a.m.

June 19, 2024

Zoom

MINUTES

DIVISION STAFF PRESENT:

Leigh Veillette, Division Director
Justin Barney, Hearing Officer
Mark Fagergren, Licensing & Education Director
Kadee Wright, Chief Investigator
Maelynn Valentine, Board Secretary
Laurel North, Enforcement Manager
Van Kagie, Investigator
Chris Martindale, Investigator
Karen Duncan, Investigator
Sandra Bargas, Education Coordinator
Connie Mickles, Investigator
Jenae Luthi, Investigator
Steven Green, Assistant Attorney General
Valerie Wilde, Assistant Attorney General
Matt Hastings, Division Analyst
Jenni Meyers, Investigator
Michael Genco, Licensing Specialist

COMMISSION MEMBERS PRESENT:

Marie McClelland, Chair
Andrea Wilson, Vice-Chair
Randy Smith, Commissioner
Jim Bringhurst, Commissioner
Rick Southwick, Commissioner

The June 19, 2024, meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair McClelland conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes of the May 15, 2024, meeting of the Commission as written. Vote: Chair McClelland, yes; Vice-Chair Wilson, yes; Commissioner Smith, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes. The motion

was approved.

Public Comment

Amanda Mendenhall addressed the Commission regarding brokerage agreements. Ms. Mendenhall suggested adding a rule prohibiting agents from entering or attempting to enter into concurrent agency representations when the licensee knows or should know that the principal has existing agency representation with another licensee. Ms. Mendenhall added that it may be good time to codify that there's no such thing as "implied agency" as there may be members of the public enter into written agreements that may not confer agency, but because they signed something they might think they have an implied agency with a real estate licensee.

DIVISION REPORTS

DIRECTORS REPORT – Leigh Veillette

Director Veillette reported on the Division of Real Estate's office move. The Division is currently in a holding pattern as other divisions are waiting for their space to be ready to move. Director Veillette thanked the Commission for their patience as the move may have caused some delay in correspondence.

Director Veillette reported that there were several questions from licensees during CARAVAN concerning squatters. The Office of Legislative Research and General Counsel, which acts as the legislature counsel, published a one pager that's called "Removing Unlawful Occupants". This article can be found by going to the legislature website at le.utah.gov and can hopefully answer any questions that licensees may have regarding this issue.

Director Veillette extended best wishes to Commissioner Smith as he is up for reappointment by the senate this afternoon.

Director Veillette reported on a proposed administrative rule change to Utah Admin Code R162 2f 401a. This change would require execution of agency agreements prior to a buyer's agent showing or touring a property and to state that no written agency agreement is required for an individual that represents a seller to tour or show the sellers property to buyers represented by other agents or unrepresented buyers. Director Veillette addressed the Commission and stated that they would need to vote on whether to approve the filing of a proposed rule, as subject to the Divisions concurrence. After a lengthy discussion it was decided for the Commissioners to receive a full copy of the

proposed changes and to add this item to next month's agenda.

Director Veillette reported on the proposed change to the state approved Real Estate Purchase Contract. Two potential language options for this change were sent to the Commission prior to the meeting. There is currently a provision in this rule which is R162 2f 401f listing the approved forms including the dates of the different versions that are approved. In the event the Commission and the Attorney General approve a change to the state approved REPC the Division will need to work on amending that rule. After a brief discussion and explanation between the two options it was decided by the commission to adopt option 1.

A motion was made and seconded to move forward with option one changes to the state approved REPC. Vote: Chair McClelland, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes; Commissioner Smith, yes; Commissioner Wilson, yes. The motion was approved.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported that in the month of May the Division received 48 complaints; closed 73 cases; leaving 468 open cases. There are 38 cases pending with the AG's office and or the Division Analyst.

Ms. Wright informed the Commission that the Division will be putting together a program and will be randomly auditing brokerages in the future. As a part of the auditing process the Division will be viewing trust accounts as well as record retention.

Stipulation presented by Matt Hastings

Davis Salazar

Stipulation presented by Valerie Wilde

Geoff Dearing

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported that if the REPC is modified that educators prepare course materials and submit those courses to be made available in order to get licensees up to date with any changes.

Mr. Fagergren gave an update on the new licensing system. The new licensing system went into effect in June with minor issues to report. Currently they are working on allowing name and address changes at the

time of renewal getting, once that is complete, they will work on the renewal of dual brokers.

Mr. Fagergren informed the Commission that he and other Division staff are in the process of reviewing Real Estate and Mortgage questions regarding Utah Law for the current licensing exam. Revision will take place after IDW in October.

Mr. Fagergren addressed the Commission regarding two individuals who have applied for a real estate license that do not have a high school diploma or GED, they would like their work and life experience to be considered in place of that requirement. Mr. Fagergren will discuss those individuals in executive session

COMMISSION AND INDUSTRY ISSUES – Justin Barney

Mr. Barney gave an update on the Wholesaling Committee. The Wholesaling Committee met in the past and it was determined that the changes that were proposed would be a matter to be addressed by the legislature. Ultimately the items were not included in the Divisions Bill. Commissioner Bringhurst states that he sat on the Wholesaling Committee and stated the discussion was mainly focused on disclosure and protection of the public, Commissioner Bringhurst suggested reassembling the Committee for further discussion.

EXECUTIVE SESSION

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair McClelland, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes; Commissioner Smith, yes; Commissioner Wilson, yes. The motion was approved.

OPEN SESSION

A motion was made and seconded to approve Danon Postman, Mikayla Peoples and Kenna Jensen work/life experience in lieu of a High School Diploma or GED. Vote: Chair McClelland, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes; Commissioner Smith, yes; Commissioner Wilson, yes. The motion was approved.

A motion was made and seconded to approve the stipulation for David Salazar. Vote: Chair McClelland, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes; Commissioner Smith, yes; Commissioner Wilson, yes. The

motion was approved with concurrence from the Division.

A motion was made and seconded to approve the stipulation for Geoff Dearing. Vote: Chair McClelland, yes; Commissioner Bringhurst, yes; Commissioner Southwick, nay; Commissioner Smith, yes; Commissioner Wilson, nay. The motion was approved with concurrence from the Division.

A motion was made and seconded to adjourn the meeting. Vote: Chair McClelland, yes; Vice-Chair Wilson, yes; Commissioner Smith, yes; Commissioner Southwick, yes; Commissioner Bringhurst, yes. The motion was approved.