

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building  
Room 250  
9:00 a.m.  
April 15, 2020  
ZOOM

### **MINUTES**

#### **DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Kadee Wright, Chief Investigator  
Joy Natale, Analyst  
Justin Barney, Hearing Officer  
Mark Fagergren, Licensing Director  
Stephen Gillies, Assistant Attorney General  
Maelynn Valentine, Board Secretary  
Sterling Corbett, Assistant Attorney General  
Mary Martinez, Education Coordinator  
Laurel North, Investigator  
Karen Duncan, Investigator  
Shane McFarland, Investigator  
Jenni Myers, Investigator

#### **COMMISSION MEMBERS PRESENT:**

Lerron Little, Chair  
Lori Chapman, Commissioner  
Russ Booth, Commissioner  
Marie McClelland, Commissioner  
Richard Southwick, Vice Chair

#### **PUBLIC MEMBERS PRESENT:**

Kreg Wagner  
Doug Spiers  
Derek Seal

The April 15, 2020 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Little conducting.

#### **PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes – A motion was made and seconded to approve the

minutes of the March 25, 2020, meeting of the Commission as written. Vote: Chair Little, yes; Vice Chair Southwick, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

### **PUBLIC COMMENT**

No comments

### **DIVISION REPORTS**

#### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported on ARELLO's most recent Newsletter. In the first news article, they shared a Corona Virus update and how it is affecting the industry. The article addresses what is going on in the country and in the State of Utah. One thing it notes is how the epidemic is affecting Multiple Listing Services. One example says that in Washington State, they issued a press release on the difficult decision to temporarily disable the public and broker open house feature in its MLS system.

Director Stewart noted that Summit County issued an order a few weeks ago that allows public showings, as an essential service, but the order was very specific that only the agent, the prospective buyer and their spouse were allowed to tour the property. The purpose is to limit the amount of people allowed in a property at one time.

Director Stewart also noted that, real estate brokers or their attorneys, as well as industry associations, have prepared Corona Virus clauses and addendums to address situations in which a transaction party may be temporarily unable to meet required contract terms and deadlines involving matters such as closing date, loan contingency deadlines and earnest money escrow deposits. The UAR developed a Corona Virus addendum, which they have shared with their members.

Another article mentions that wire fraud scams have increased. One thing the Division has done is to issue a Public Service Accouchement urging agents and brokers to be especially vigilant to situations in which hackers compromise the email accounts of real estate professionals in order to identify upcoming real estate transactions and divert escrow-closing funds.

Licensing examination providers have closed their physical testing centers all over the U.S. and are monitoring the situation for when they may be able to reopen. Our testing provider, Pearson Vue, has been closed since March 16<sup>th</sup> and the Division was told they would reopen on April 16<sup>th</sup>. However, that

date has since been extended to at least May 1<sup>st</sup> and we will be notified if that date changes. This does pose a delay for individuals attempting to enter the real estate industry. Pearson Vue owns the test that they administer and in our most recent RFP where the Division renewed the contract with Pearson Vue, one of the changes that we made was that new questions that we develop over the course of our contract become the property of the Division. Previously, that was not the case.

Regulators are also developing plans to address anticipated extension requests for examinations, fingerprint submissions, license renewal applications and many other license law requirements that involve completion or compliance deadlines. Currently the Division is not requiring that licensees be fingerprinted and complete their background check. We will keep people updated and give individuals plenty of time to get this requirement done when fingerprinting is again available. Licensees will receive advance notice giving them time to be fingerprinted.

Lastly, during the legislative session there was discussion regarding a change in the Bill by removing the term "Moral Turpitude." The day that the bill was up for presentation on the House floor, Connor Boyack of Veritas Institute contacted the Division about the proposed language for the statutory amendment. His concern was about a blanket statement that a felony committed by a licensee was prohibited conduct and he wanted the language to be more specific about types of felonies. Director Stewart explained to Mr. Boyack that the statutory amendment was an attempt to clarify licensing requirements after further explanation; Mr. Boyack suggested that we need additional clarification. His suggestion was to amend the statute to describe what types of felonies with which the Division and Commission were most concerned. Ultimately, the Division decided not to change the proposed statutory amendment, but did agree to develop some type of a matrix for crimes involving felonies. Current rule denies renewal if a licensee is convicted of a felony during the licensure term. The Legislature would like the Division to move towards discretionary licensure decisions rather than an automatic denial.

### **ENFORCEMENT REPORT – Kadee Wright**

Ms. Wright reported that in the month of March the Division received 13 complaints; closed 43 cases; leaving 465 open cases. There are 12 cases pending with the AG's office.

### **Stipulation for Review**

Stephen Blake Hansen-Presented by Stephen Gillies

## **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren reported that in some states, regulatory agencies receive their operating revenues directly from licensing fees collected from applicants and licensees. These agencies are concerned about a reduction in fees from fewer applicants and licensees during the Covid-19 outbreak. In Utah, the Division is funded through the State budget and is not dependent on licensing fees. As a result, the Division is not under the same revenue pressures. Statistically, Mr. Fagergren is wondering if the division will see an impact on licensing numbers in future meetings due to Covid-19.

Last month there was a request for high school equivalent education review for Yermid Janet Marino Pio and the Commission requested more details on her work or education for further review. She sent the following in an email to Sarah Thaler "Hello Sarah, Here is the list of the following information. Studies-I am a licensed barber/cosmetologist since January 2016. Training in Mountain Land Technology College in 2014-2015. English Language College in 2005-2008. Jobs-Worked at Smarts Styles inside Wal-Mart 2017-2019. I worked as an elementary teacher in Peru from 2009-2013. Any other information please let me know."

Mr. Fagergren gives an update on the discussion from last month about virtual courses. A number of the courses are being offered now so that licensees are able to receive their continuing education during the pandemic without having to meet in a live classroom setting. The Division is a low point in terms of the number of new applicants, due to the unavailability of testing. Licensing staff remains busy, fielding more phone calls and giving updates to applicants regarding fingerprinting, testing and license renewal. Mr. Fagergren discusses a phone call that he received from an individual who has taken her pre licensing education to become a broker and is frustrated that she is not able to test.

Commissioner Southwick asks if Pearson Vue may be able to give priority to people that have been waiting during the time of closure. Mr. Fagergren will reach out to Pearson Vue and see if that is a possibility. He also stated that the Division is extending waivers for individuals whose education will be lapsing and the hope is to give them a similar period of time for which they can be tested after Pearson Vue resumes testing.

### Stipulation for Review

James Carroll-Presented by Sterling Corbet

## **BOARD AND INDUSTRY RULE UPDATE – Justin Barney**

Mr. Barney reported on the proposed rule amendment which the Commission

has approved is being prepared for filing and moving forward.

Commissioner Southwick would like an agenda item added to the next meeting regarding updating the FHA/VA addendum. It has not been revised in many years and is currently outdated. A committee will need to be formed with members from the Commission, Division staff members and a few individuals that are currently in the industry. State approved forms need to be approved by the Commission and then by the Attorney General for final signature and approval. Commissioner Southwick will spearhead the issue and put the committee together and work on the FHA/VA addendum.

### **Hearing**

Tanner Cromar

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 Little, yes; Vice Chair Southwick, yes; Commissioner Chapman, yes; Commissioner Booth, yes; Commissioner McClelland, yes. The motion was approved.

### **CLOSED TO PUBLIC**

Executive session from 11:43 a.m. to 1:47 p.m.

### **OPEN TO PUBLIC**

### **Results of Executive Session**

Director Stewart stated the Commission met in executive session to consider the high school equivalency for Yermit Lorena. The Commission considered the stipulations for Blake F. Hansen and James Carroll. The following stipulation was approved with the concurrence from the Division, Blake Hansen. The Commission rejected with concurrence the stipulation for James Carroll. The Commission made a decision regarding the hearing for Tanner Cromar. They will all be notified of these decisions by mail.

Commissioner Chapman started a discussion regarding digital marketing. Her question is "Do other agents have the right to market a property if they are not the listing agent? Of course, if they have written approval by the

broker and the seller of the property. If they do not, do they have right to put that property on their website, Facebook or any other media sites?"

Ms. Wright responds by informing Commissioner Chapman that they do have the right to market a property they have not listed, as long as they give credit to the listing brokerage. If they do not give credit, then they need written authorization from both the property owner and the listing brokerage.

A motion was made and seconded to adjourn the meeting, Vote: Chair Little, yes; Vice Chair Southwick, yes; Commissioner Chapman, yes; Commissioner Booth, yes; Commissioner McClelland, yes.. The motion was approved. The meeting adjourned at 1:53 p.m.