

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building  
Room 250  
9:00 a.m.  
June 17, 2020  
Google Meet

### **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  
Mary Martinez, Education Coordinator  
Laurel North, Investigator  
Karen Duncan, Investigator  
Shane McFarland, Investigator  
Sarah Nicholson, Investigator  
Chris Martindale, Investigator  
Mark Schaerrer  
Judith Jensen, Assistant Attorney General

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

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

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

Kreg Wagner  
Dan Naylor  
Rob Aubrey  
Cheryl Knowlton

The June 17, 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 May 20, 2020, meeting of the Commission as written. Vote: Chair Little, yes; Commissioner Booth, yes; Commissioner McClelland, yes. The motion was approved.

### **PUBLIC COMMENT**

Rob Aubrey a Principal Broker and Continuing Education Instructor made a comment regarding the different types of continuing education that is currently available. There is live and online, with temporary availability for live/online to accommodate students during the Covid-19 pandemic. Typically, online would be taught without an instructor and is done by watching videos and answering questions at the end. Live online is a virtual meeting with an instructor teaching via virtual platform such as Zoom or Google Meet. Continuing education has wanted to implement the live-online option for students and the current pandemic has accelerated the need to put it in place sooner than anticipated. The Division is currently working to create a policy to make it a permanent option for students in the future. Mr. Fagergren will discuss this topic in depth during his report.

## **DIVISION REPORTS**

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

Director Stewart reported on the current state of the Division. Salt Lake City is still Orange. Many parts of the state have moved from orange to yellow status with regard to the Covid-19 pandemic. There has been no change as far as the Heber Wells building being open to the public. The decision to open the building once the city moves from Orange to Yellow will be made by Chris Parker.

The Division has not resumed fingerprinting at this time. Testing centers have opened to the public and there is currently one testing center location that is performing fingerprinting. The Division has made the decision not to require fingerprinting for July renewals. Licensees who need fingerprints to renew are going to be fingerprinted later, most likely when they renew in 2022.

Director Stewart reported that it is the end of the fiscal year and is also the end of Commissioner Booth and Commissioner Little's second terms. Director Stewart publicly thanked them for their service and all they have done for the Division and their industry. There will be two new Commissioners next month. Jim Bringhurst and Randal Smith.

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

Ms. Wright reported that in the month of May the Division received 14 complaints; closed 21 cases; leaving 463 open cases. There are 10 cases pending with the AG's office.

#### Stipulations for Review Presented by Joy Natale

Gerald Crawford  
G. Dean Ingram

#### Stipulation for Review Presented by Judith Jensen

Sandra Critchlow

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

Mr. Fagergren reported that there were 100 new licensees up from last month. The Division is seeing a surge of new applicants and is keeping licensing staff busy.

Mr. Fagergren continued the discussion regarding virtual classes from the public comment portion of the meeting. Rob Aubrey had mentioned the current rule allowing virtual live education to be taught during the Covid-19 pandemic to allow students to attend via Zoom. There are currently no restrictions for live courses or the number of attendees however, there are many courses not being taught in a traditional live setting as people are self-isolating or social distancing to reduce the spread of the virus. The second method that is currently approved is distance education. This does not take place in a traditional classroom and includes interactive instructional methods. Mr. Fagergren addresses the Commission to propose a third option to try to extend the current temporary allowance of virtual courses. This option is for virtual-live education and defined as follows:

**“Virtual Live Education”** - Live courses taught utilizing media software (i.e. Zoom, Google Meet, Microsoft Teams, GoToWebinar, etc.) that enables the instructor and student to be separated in distance (not time) with specified attendance limits, monitoring, and student interaction.

The feedback from instructors and students in regards to virtual live education has been extremely positive. However, providers would prefer to allow for larger class sizes.

Mr. Fagergren recommends to the Commission that the following be the recommended standard for virtual live courses:

Proposed Rules for “Virtual Live Education”:

1. Pre-Registration Required:
  - a. Specifications and course requirements
    - i. Internet speed
    - ii. Camera/Microphone requirement on computer
    - iii. Attendance management policies & monitoring requirements
2. Instructors must share screen (no picture, no "talking heads")
3. Monitoring (managing course connections/disconnections, attendance, sign in sheet, "doorbell feature," etc.)
  - a. 1 – 25 students – one monitor
  - b. 26 – 50 students – two monitors
4. 50 Virtual Live student maximum capacity
  - a. Students primary beneficiaries vs. instructor convenience
5. Interactivity components to be included in virtual live education courses:
  - a. "magic words"
  - b. "chat features"
  - c. Random quizzes
    - i. By both monitors and instructor
  - d. "Raise your hand features"
  - e. Test at the end of a class

Mr. Fagergren introduces Cheryl Knowlton to the Commission and staff to comment on the proposal. Ms. Knowlton is in favor of the virtual live option for students. She has found that class sizes offered with over 50 students becomes very cumbersome and unmanageable.

Chair Little asks if there is a format that incorporates all of the interactivity components listed under number 5 of the proposal. Mr. Fagergren answers that most formats have them built into the software and the presenter of the course designs other features. Chair Little asks if all of the features that are listed be included in every course. Mr. Fagergren explains that all features are not required but suggests that there should a certain number per hour to make sure students are participating. Vice Chair Southwick agrees that the interactivity requirement would ensure that students are engaged. Chair

Little asks Ms. Knowlton if she had her choice of teaching a live course or a virtual live course, which would she prefer. Ms. Knowlton explains that she just wants to deliver quality instruction, but ultimately prefers the energy and engagement of a live course. Mr. Fagergren explains that instructors will have the additional option of how they want to teach their course. It would not have to be one selected over the other. We are trying to ensure that whichever method they use that it is effective for instructors and students. Chair Little explains that the reason for his question was that once the state gets back to some normalcy that there would not be a reason to exclude the virtual live option for instructors.

Commissioner Booth asks if there would be any specific courses that would be rolled out first in regards to procedure and how to verify things such as internet strength needed for virtual live courses. Ms. Knowlton explains that she has been teaching courses that currently have the greatest demand. She has also been able to test all of the interactivity features during her courses. She also breaks up her seven hour courses over two days as "Zoom fatigue" starts to kick in after a few hours in to the virtual live courses. To answer Commissioner Booth's question regarding testing internet speeds, there is a lengthy email that is sent to students with requirements for internet speed and capability. If the student does not have the required internet capacity, then their tuition credit becomes banked so they are allowed to attend a class at another time. Commissioner Booth likes the idea of the virtual live courses and is glad that it is an opportunity to keep and even increase the quality of education.

Rob Aubrey comments that he loves the virtual live classes as they have the ability to reach the far corners of the state and allow rural students to get the quality education that larger cities receive. He does not like the idea of limiting the class size to 50 as his normal class size, on average, is around 60-70. However, he does have an assistant, where he instructs and his assistant runs the monitor and mouse. His classes tend to be larger as his classes are free for students. So, if a student misses a class they do not get the credit. Mr. Fagergren explains that the proposal is for rules to be considered but they have not yet been adopted. It may be four or more months before any rules would go into effect regarding the virtual lives courses.

Vice Chair Southwick comments that the virtual live classes are a good idea and that it appeals to the smaller market areas all over the state of Utah. He asks if there is time deadline where they would need to decide on the proposal in terms of how long the virtual live classes are allowed to continue. Mr. Fagergren explains that if they agree on the proposal then Mr.

Barney would prepare a proposed rule amendment to be submitted. Commissioner McClelland comments and agrees with the proposal. She thinks it is a great option to be added. She asks the attending educators what they feel would be a preferred class size. Miss Knowlton prefers a class size of up to 49 students due to the constraints of Zoom. Miss Knowlton explains "break out rooms" in-depth. A break out room is a feature in Zoom that allows the instructor to break out classmates into groups to either discuss a topic or do a group project. Director Stewart and Mr. Barney agree that a motion is not necessary to have Mr. Barney draft a proposed rule amendment regarding the virtual live education option. Mr. Fagergren addresses the Commission and asks them view the student as the primary beneficiary to the virtual live courses and the benefit it would have for them.

A motion was made and seconded to move forward with drafting a proposed rule amendment for virtual live education. Vote: Chair Little, yes; Vice Chair Southwick, yes; Commissioner Chapman, yes; Commissioner Booth, yes; Commissioner McClelland, yes. The motion was approved.

Mr. Fagergren reported on the discussion with Neal Jackman. Mr. Jackman would like Valuation to be added as a core topic. Chair little explains that Valuation is an important principle of real estate. Director Stewart believes that it should be an elective course. There are currently 13 core topics. Vice Chair Southwick agrees to add Valuation as a core topic. Miss Wright explains that a majority of appraisal complaints received are from real estate agents filing complaints against an appraiser regarding valuation. Commissioner Booth does not believe there is an immediate need to make a motion and agree to add valuation as a core topic at this current time. Vice Chair Southwick moves that the Commission does not take action on this request as it does not require immediate attention.

A motion was made and seconded to not take action on the request to add valuation as a core topic. Vote: Chair Little, yes; Vice Chair Southwick, yes; Commissioner Chapman, yes; Commissioner Booth, yes; Commissioner McClelland, yes. The motion was approved.

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

Mr. Barney reported on the proposed rule amendment. There were minor changes, it has been sent to the Commerce department, the Executive Director will make his comments on the proposed rule amendment. Once it is returned, it is submitted to the Division of Administrative Rules, then to the Governor's Office for their comments or suggestions. Once that is

complete then it will be published and submitted for public comment.

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 11:27 a.m. to 11:43 a.m.

### **OPEN TO PUBLIC**

#### **Results of Executive Session**

Director Stewart stated the Commission met in executive session, The Commission considered the stipulations for Gerald Crawford, G. Dean Ingram and Sandra Critchlow. All stipulations were approved with the concurrence of the Division.

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 11:45 am.