

Arizona Department of Real Estate (ADRE)  
Real Estate Advisory Board  
Minutes  
June 27, 2013

The Real Estate Advisory Board met on Thursday, June 27, 2013 at the Arizona Department of Real Estate (ADRE), 2910 N 44<sup>th</sup> Street, Commissioner's Conference Room, Phoenix, Arizona.

**I. Call to Order**

Chair Kim Horn called the meeting to order at 10:01 a.m.

Members present:

Kim Clifton, Vice Chair  
Frank Dickens, Member  
Bill Gray, Member

Teleconference:

Charlie Bowles, Member

Absent (Excused due to meeting date change):

Carla Bowen  
Scott Peterson, Member  
Jo Ann Sabbagh, Member  
Dennis Wilenchik, Member

ADRE Representatives present:

Judy Lowe, Commissioner  
Mike Wheeler, Assistant Commissioner  
Sarah Dobbins, Chief of Staff  
Louis Dettorre, Legislative Liaison  
Carla Randolph, Education and Interim Licensing Manager  
Joni Smith, Administrative Assistant

Members of the Public Present:

Courtney Gilstrap LeVinus  
Michelle Lind

**II. Introductions & Welcome**

Newly appointed Chair Horn welcomed Advisory Board members and ADRE staff to the meeting and asked for all to participate in a round table introduction for members, ADRE staff and the public present.

Chair Horn reviewed the RE Advisory Board member attendance policy. A brief discussion ensued regarding the guidelines for excused and unexcused absences. Chair Horn mentioned that Assistant Attorney General Shelby Cuevas would be providing a presentation on Open Meeting Law that should address some of the questions.

### III. Minutes

Member Dickens made a motion to revise the minutes with a one word change that was sent in by Member Carla Bowen (page three, 3<sup>rd</sup> paragraph the sentence beginning with “because the seller”, the word seller should be changed to “buyer”); motion was seconded by Member Clifton, the Minutes of the April 24, 2013 meeting were unanimously approved.

### IV. Commissioner’s Report

- a) **Budget** - Commissioner Lowe reported that ADRE’s appropriation for FY14 would be \$2.9 million.

Commissioner Lowe reviewed the FY2013 Agency Report to the Governor’s Office and outlined the major objectives in ADRE’s FY13 – FY17 strategic plan. With regard to the Strategic Plan, she commented that the objectives remained the same from the previous year, but new strategies have been implemented. The Strategic plan is posted to ADRE’s website. She also commented on fiscal year end-statistics for the department and reported on technology accomplishments such as the new capability for online original license applications as well as current challenges with the need for rule revisions.

- b) **Division Report** - Commissioner Lowe reported the licensing statistics were currently at 84,779 licensees. The number of licensees leaving the business is currently at approximately 700 per month; however there is an average of approximately 400 per month entering the real estate industry as new licensees. Within the Education Division, administered tests have increased, with 203 Active Status Schools, 2963 Active Status Courses and 1054 Instructors.
- c) **Department Report** – Carla Randolph, Education Manager and Interim Licensing Manager, provided a brief presentation of the New Online Original License Application System and reported that in the first month of release, May, 15% of applicants used the online services and June had a steady increase at 27%. Commissioner Lowe added that no other real estate agency has online licensing application.
- d) **Pending Issues** - Commissioner Lowe reported that the Broker Audit Survey was turned off and the Department received approximately 72.6% voluntary responses. Discussion ensued around the results of the survey. Commissioner Lowe commented that the Department was in the process of aggregating the data. Member Dickens inquired if names would be shared, the Commissioner commented it would be statistics only and that the data is still currently on Survey Monkey. She also commented that the information on

Delegated Associate Brokers would be compiled in order to comply with the Broker Management Clinic education requirements. Member Bowles inquired if he should be instructing students in his classes to notify the Department again if they are utilizing off-site storage. Commissioner Lowe commented that if they did not complete the recent survey, they should notify the Department.

Chair Horn inquired if the aggregated data would be shared. Commissioner Lowe replied that it would be shared.

e) **Legislative Update**

Louis Dettorre, Legislative Liaison, reported that after 151 days in session the legislative session adjourned on June 14, 2013. He provided update on the following bills:

- **HB2390 – Amendment to Public Reports for Developer and Sub Dividers:** Introduced by Rep. Justin Pierce and was an attempt to allow builders and developers a broad exemption from the public reporting process. The bill would have eliminated the subsequent owner's exemption process.
- **HB2525 – Cancellation of Inactive License:** This was an ADRE agency bill. Rep. Warren Petersen sponsored the bill that will allow an inactive licensee, in good standing, to cancel their real estate license without first becoming active.

Additionally the Department worked with the Central Arizona Home Builders to add an amendment to HB2525 that addresses a person or entity wishing to market lots for sale or lease in an existing subdivision. The bill extended the timeframe for eligibility to utilize an existing public report from two to five years. HB 2525 was signed by the Governor on April 5<sup>th</sup>, 2013.

- **HB2404 – Property Management Storage Retention:** Introduced by Rep. Heather Carter. Mr. Dettorre worked with Arizona Multi-housing Association on a Substantive Policy Statement that addresses this item.

The general effective date for newly passed bills is Sept 13, 2013. Mr. Dettorre concluded that in the interim period he will continue to communicate with stakeholders and the industry to identify emerging issues and discuss priorities that may not have been addressed during the 2013 legislative session. Mr. Dettorre stated that further information can be found on the Legislature's website and that the Department's 2013 Legislative Summary would be available on the Department's website soon.

**V. Real Estate Services Update**

Assistant Commissioner – Real Estate Services, Mike Wheeler presented an update on division services including statistical data.

**VI. Assistant Attorney General Presentation – Shelby Cuevas**

Assistant Attorney General (AG), Shelby Cuevas is legal counsel to the department and provided a presentation on Open Meeting Law and how it applies to the Real Estate Advisory Board:

Core concept of Open Meeting Law is defined as, "It is the public policy of the state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings with contact information as is reasonable necessary to inform the public of the matters to be discussed or decided. A.R.S. § 38-431.09.

**What constitutes a meeting:** Advisory board meeting is a gathering, in person or through technological devices, of a quorum at which they may discuss, recommend or propose. A.R.S. § 38-431(4). This includes Skype, teleconference and e-mail communication as acceptable means for a board member to attend a meeting.

**What constitutes a quorum:** A majority; for a 9 person body, 5 people is a quorum.

**Who must comply with Open Meeting Law:** Public bodies. "Public body" means the legislature, all boards and commissions appointed by the Governor.

**What is permitted under the Open Meeting Law:**

1. A public body requires at least 24 hours' notice of meeting to the advisory board members and the general public and posted on the website. Agenda contain information reasonably necessary to inform the public of the matters to be discussed or decided.
2. Call to the Public is permitted, but not required.
3. Public session meeting minutes of all meetings.
4. Advisory Board members may speak to the media about matters that come before the board.

## **VII. Review Open Meeting Law's**

Chair Horn inquired to Assistant AG Cuevas about the process for a special meeting and when to call to the public. Assistant AG Cuevas responded that the Board can set limits on whether the public can be called on to speak and can limit time to speak, if this is done, it should be specifically outlined on the agenda. Further, Assistant AG Cuevas stated that the Open Meeting Law gives the public the right to attend and listen, but not to speak until they are recognized, and only at that time are they allowed to speak.

## **VIII. Review – Property Management motion from April 24, 2013 meeting**

Chair Horn read the motion from the previous meeting minutes on formation of stakeholder group and asked for clarification. Assistant AG Cuevas responded that it was not necessary to setup a second group and create another layer of the Open Meeting Law. She commented, the board could allow 1 or 2 members to do a separate study and report back to the Board. Discussion ensued and question was asked, does a stakeholder or taskforce group appointed by the Commissioner constitute an open meeting? Assistant AG Cuevas responded yes, it's an open meeting and the goal of the group(s) is to be as open and transparent as possible.

Member Gray inquired about ethic classes for the board members and Assistant AG Cuevas responded that the ombudsman's office has some information on their website as well <http://www.azleg.gov/ombudsman/>.

Vice-Chair Clifton commented that she and Chair Horn have not discussed the property management item since the April 24<sup>th</sup> meeting, she then motioned to retract the motion made regarding a small property management group at the April 24<sup>th</sup> meeting; the motion was seconded by Member Dickens and passed unanimously.

Member Dickens motioned to convene a special advisory board meeting to review Property Management financial aspects of bonding & financial guarantee, and to also have a discussion of the collaborative opportunities for the exchange of knowledge between auditors and property managers and a discussion regarding timeframes. Vice-Chair Clifton seconded; motion passed unanimously.

Member Dickens suggested increased efforts to invite all real estate licensees as well as the public.

## **IX. Facilitator Reports**

At the request of the individual sending in a complaint, Mr. Lou Stojack, Commissioner Lowe provided Advisory Board members with his letter and complaint and commented that it has been turned into the investigations division who has opened an investigation. As this is regarding an open investigation and ADRE is not permitted to share information on open investigations with the public, the letter was not provided to members of the public in attendance.

Commissioner Lowe read aloud a thank you letter from Charlie Harrison who commended the department in the collective efforts to help him renew his real estate license. In the letter Mr. Harrison thanked the Commissioner for her phone call and also commented on the efforts of and his positive interactions with ADRE employees Christine Eyde and Limni Varela. Mr. Harrison had requested that the letter be read to the Advisory Board and by copy of the letter requested it be shared directly with Ms. Eyde and Ms. Varela. .

Member Dickens reported on inquiries from Brokers going through property management audits, who are inquiring about the length of the timeframe of their audit. Commissioner Lowe provided information on the process and some description of different types of outcomes of audits that could affect timeframes; further she added that the dynamic of the Department process is being streamlined.

Member Gray commented on two inquiries he had received; the first asked, if rules are not done within one year will the education fees stand. Legislative Liaison Dettorre responded that the Department was given authority to create exempt fees up to July 1, 2013. The Department did not need the approval of the review council or governor to impose the fees. The fees will stand. Secondly, he inquired as to who can pay an unlicensed assistant and commented there was some

confusion regarding this item amongst those that contacted him. Commissioner Lowe commented that she would review.

Vice-Chair Clifton continues to receive information on a matter brought up at the last meeting and will follow-up with AAR. She also had an inquiry on an individual trying to renew his license with a disclosure that occurred. She forwarded him to the Message Center.

Member Bowles reported on a call from a seller regarding a listing that involved mishandling and ethics issues; he will direct them to communicate with Tucson Association of Realtors and will suggest that they may file a complaint with the Department if they wish.

Chair Horn reported briefly on inquiries of audits.

There were no other facilitator reports.

**X. Other Matters**

None

**XI. Call to the Public**

Courtney Gilstrap LeVinus inquired about her desire to receive a summary of audit numbers. Member Dickens requested that a report be included in the agenda for the special Advisory Board meeting.

Courtney also inquired what emerging issues might be addressed in the future that were not during the 2013 session. Mr. Dettorre responded that there is no agenda at this time on what the policy issues will be.

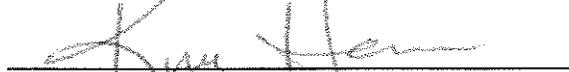
Michelle Lind inquired as to the timeframe of when the survey compilation will be available to the public. Commissioner Lowe responded that a definite date cannot be given due to staff limitations. Secondly, Michelle questioned if the Department has identified which rules they will be revising. Mr. Dettorre explained that the Department is required to review specified articles for an upcoming 5 year rule review in February 2014. He further added the Department is requesting an exemption to the moratorium on rule making.

**XII. Next Real Estate Advisory Board Meeting:  
August 14, 2013**

**XIII. Adjournment**

At 12:16 pm Vice-Chair Clifton made a motion to adjourn the meeting. The motion was seconded by Member Dickens and passed unanimously.

Respectfully submitted this 14 day of August, 2013  
Real Estate Advisory Board

A handwritten signature in cursive script, appearing to read "Kim Horn", is written over a solid horizontal line.

*Kim Horn, Chair*