

Arizona Department of Real Estate (ADRE)
Real Estate Advisory Board
Minutes
December 4, 2012

The Real Estate Advisory Board met on Tuesday, December 4, 2012 at the Arizona Department of Real Estate (ADRE), 2910 N 44th Street, Commissioner's Conference Room, Phoenix, Arizona.

I. Call to Order

Chair Charles Bowles called the meeting to order at 10:05 a.m.

Members present:

Charles Bowles, Chair
Carla Bowen, Vice Chair
Kim Clifton, Member
Frank Dickens, Member
Kim Horn, Member
Patti Shaw, Member

Absent:

Jo Ann Sabbagh, Member
Dennis Wilenchik, Member

ADRE Representatives present:

Judy Lowe, Commissioner
Mike Wheeler, Assistant Commissioner – Real Estate Services
Sarah Dobbins, Chief of Staff
Carla Randolph, Education Manager
Louis Dettorre, Legislative Liaison
Joni Smith, Administrative Assistant

II. Introductions & Welcome

Chair Charlie Bowles welcomed Advisory Board members and ADRE staff to the meeting; he also introduced Joni Smith, new ADRE Administrative Assistant.

III. Minutes

Upon a motion by Member Clifton; seconded by Member Shaw, the Minutes of the September 12, 2012 meeting were unanimously approved.

IV. Facilitator Report

Member Bowen reported she had found unlicensed activity and will turn information over to the Department.

Member Dickens reported on an inquiry regarding the process of a timely renewal, when the licensee has failed to disclose a conviction within the 10-day requirement which resulted in the request from ADRE for a new fingerprint card prior to completion of the renewal. He requested at the next meeting for clarity on disclosures and fingerprint cards process.

Commissioner Lowe commented that there is an ongoing investigation with this case and that ADRE has worked directly with the licensee. She explained that any late disclosure requires that ADRE not issue a license until the licensee provides a new fingerprint clearance card. She referred Member Dickens to statute 32.2108.01 F3 (a) for applicant requirements. Commissioner Lowe asked Mike Wheeler, ADRE Assistant Commissioner, to provide the Advisory Board with the disclosure process.

Assistant Commissioner – Real Estate Services, Mike Wheeler, stated that all late disclosures must go through the internal process for investigations. Specific to any criminal disclosure not reviewed by the department, the applicant must get a new or revised fingerprint card before the application can be accepted. Louis Dettorre, Legislative Liaison, referred to the 2013 Proposed Legislation that any applicant with a 10-day disclosure would be required to obtain a fingerprint clearance card.

After further discussion, Commissioner Lowe asked Member Dickens if the discussion within this meeting had cleared up his questions. He stated yes and complimented the Commissioner on her handling of the particular licensee's scenario.

Commissioner Lowe and Chair Bowles stated that there needs to be an article in the next bulletin regarding this topic.

There were no other facilitator reports.

V. Property Management Update

As follow up to the Advisory Board's recommendation regarding a Property Management Stakeholder Group, Commissioner Lowe provided a report on the Stakeholder meeting that was held on November 14, 2012. She reviewed the various backgrounds of the individuals who served on the committee, as well as the recommendations they put forth. The Committee included a diverse group that included Licensees, those who own or work with Property Management companies, as well as a lobbyist for the Apartment Management Association.

Commissioner Lowe also reviewed the results of the questionnaire (see attached) completed during the meeting by each Stakeholder group member. The results of the questionnaire demonstrated that the group was not able to come to a consensus.

Member Horn posed the question about how ADRE can track the compliance of Property Managers. Member Bowen proposed that ADRE implement the declaration audit to be included as an addendum for Property Management. Commissioner Lowe reported that the Stakeholder Committee did not want bonds based on a company's total financials, but rather on trust fund revenue. ADRE Legislative Liaison Louis Dettorre commented that there is a growing awareness of the problem of deficiencies in property management companies.

Commissioner Lowe provided the following highlights Audit Report on Property Management:

- As of January 1st 2012 – September 30, 2012, 107 infield audits, 28 actions, 22 financial deficiencies in trust account in total deficiency amount is \$3.3 million. There is an estimate to be 7,000 Property Management companies in Arizona.

Commissioner Lowe asked the Board for their recommendation based on the Stakeholder committee's recommendations and review of the meeting.

Member Bowen recommended to eliminate the Stakeholder Committee and have ADRE put together legislative proposal. Legislative Liaison Dettorre mentioned that the Governor's office has advised that the Department not to bring forth legislation regarding Property Management at this time, however, if an industry member or group wished to do so, that would be their prerogative.

Further discussion ensued and then Member Clifton made a motion that a small taskforce group be created within members of the Advisory Board (not to equal a quorum). The small group would:

1. *Review potential content for the Property Owner's Advisory.*
2. *To table the education recommendation.*
3. *Utilize the smaller group, of the RE Advisory Board, to include a financial bonding professional, who can create a flowchart to educate the group as they explore property management financial mechanisms.*

Chair Bowles posed the question of when the group should meet and that, if the group chose to look to find support from the industry to put forth legislation, it would be necessary to know the deadline for Bills to be dropped. Legislative Liaison Dettorre mentioned that the deadline is Mid-January and that he would provide the data to the group.

The motion was seconded by Kim Horn and passed unanimously. Chair Bowles appointed a committee of four to address Property Management financial mechanisms, in addition to bonding, to protect the public. The group will include, Member Clifton, Member Dickens, Member Horn and Member Bowen.

VI. Legislative Issues

Louis Dettorre, ADRE's Legislative Liaison, reviewed proposals/ issues the Department has identified to consider for the upcoming legislative session (see attached). The list has been presented to the Governor's office.

- **Real Estate Recovery Fund: (See attached Description)** Legislative Liaison Dettorre revised proposed legislature that will ensure the sustainability of the fund:
 - Attorney fees shall not be directly awarded, except in contested cases appealed to the Superior Court.
 - Increasing the fund cap to \$1 Million (A.R.S. § 32-2187(B))
 - Reduce the funds liability per transaction from a cap of \$30,000 to a cap of \$10,000 and the liability per licensee from a cap of \$90K to a cap of \$40K.

Discussion ensued. A question was posed about what are 'reasonable attorney fees' and members inquired about the process to eliminate the fund. Legislative Liaison Dettorre advised the group that a repeal of the fund would require support from the industry.

- **Cancellation of Inactive License:** Mr. Dettorre commented that the proposal is a one word change to include the cancellation of an inactive real estate. No further discussion on this matter.
- **Fingerprint Clearance Card Requirements:** No discussion on this matter.
- **Requirements for Branch Office:** Mr. Dettorre commented that this is a trailer bill to the Broker Management Clinic, which encourages a more educated branch manager. Member Dickens and Member Bowen suggested adding verbiage to address the issue that only associate brokers can approve contracts and state that a salesperson does not have authorization to approve contracts.
- **Non-Disciplinary Letters of Concern:** Mr. Dettorre commented that this is an issue the industry could take up if they so chose.

VII. Live vs. Distance (web conferencing) Learning Courses

Education Manager, Carla Randolph announced the committee had not been formed and they would meet in January. She also reported that she has provided information to Member Sabbagh for the research that she volunteered to conduct.

VIII. Broker Management Clinic Update

Education Manager Randolph provided an update on the status of the implementation of the Broker Management Clinic. She commented that the schools have been preparing since August and there are now 35 approved courses. In addition:

- The ADRE online system has been updated to accommodate the nine hours requirement. This will deploy on January 1, 2013.
- ADRE's IT department has updated the public database and email reminders are being sent to licensees with the 90, 60 and 30 day reminders.
- Instructor Development Workshops courses have been approved and are now available in schools in Phoenix, Tucson and Sedona.

- Old courses, that do not meet the new BMC requirements, will terminate on December 31, 2012.

IX. Commissioner's Report:

- a. **Budget-** Commissioner Lowe stated that ADRE is waiting to hear from the Governor's office regarding the FY2014 budget request. The agency is looking at FY2013 funding mechanisms.
- b. **Division Reports -** Commissioner Lowe presented the Department Division stats (see attached) as well as the Department DRAFT new 5 year Strategic Plan (see attached). She commented how each division will address strategic issues within their department.

X. Other Matters:

2013 meeting calendar was distributed.

XI. Call to the Public:

There were no members of the public present for the meeting

XII. Next Real Estate Advisory Board Meeting:

February 13, 2013, 10am at ADRE, 2910 N 44th Street, Phoenix, Arizona 85018

XIII. Adjournment

At 12:10pm Chair Bowles made a motion to adjourn the meeting. The motion was seconded by Member Kim Clifton and passed unanimously.

Respectfully submitted this 13th day of February, 2013

Real Estate Advisory Board



Charles Bowles, Chair