

**Arizona Department of Real Estate (ADRE)**

**Education Advisory Committee (EAC)**

**Minutes**

**December 9, 2014**

The Education Advisory Committee met on Tuesday, December 9, 2014, 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**

Commissioner Lowe called the meeting to order at 10:05 a.m.

**Members present:** Marti Barnewolt, Mary Frances Coleman, J. Robert Eckley, Holly Eslinger, Jim Hogan, Andrew Jaffe, Jon Kichen, Becky Ryan, Mary Sand, Janette Waller; Jim Zirbes

**Teleconference:** Evan Fuchs

**Absent:** Barb Freestone, Amy Swaney.

**ADRE Staff:** Commissioner Lowe; Louis Dettorre - Assistant Commissioner Operations/Legislative Affairs; Sarah Dobbins – Chief of Staff; Kim Ellis, CSR; Carla Randolph, Assistant Commissioner, Licensing; Jim Williams, Education; Kurt Labotz, Education

**II. Introductions & Welcome/Announcements**

For the benefit of Member Fuchs who attended telephonically, Commissioner Lowe asked each attendee to introduce themselves. The Commissioner discussed the Governor-elect's transition website, 2015azgctc.com which gives updates on the transition and lists donors. The Commissioner commented that all agency directors are being asked to submit a resume for their position. The Commissioner mentioned the article in the Arizona School of Real Estate and Business Journal heralding her appointment to ARELLO. Commissioner Lowe mentioned the hiring of two new employees: Frank Medina, auditor and Kathy Kirsch, administrative assistant for Investigations/Auditing. The Commissioner commented on current vacancies which include a Development Services administrative assistant, an auditor, and an investigator. The Department is working on a posting for a contract auditor.

**III. September 9, 2014 – Meeting Minutes – Review/Approval**

Member Hogan motioned to approve the minutes, which was seconded by Member Eslinger. Member Kichen voiced his concern that XI, Other Matters, did not accurately reflect his suggestion which was to allow a function where a school could create an address book on the website. AC Randolph noted that an amendment was prepared, which she read out loud (see item XI. Other Matters addendum). Member Coleman commented that she would like to have the option to search schools by category. The committee approved these suggestions unanimously and passed the amended minutes unanimously.

#### **IV. Industry/Legislative/ADRE Update – Commissioner Lowe/Louis Dettorre**

Commissioner Lowe talked about attending the National Association of REALTORS® conference and highlighted the national issues that were discussed.

1. IRS and labor commissions. Issues arise when an independent contractor assistant, usually unlicensed, leaves a team and claims they were treated as an employee, not as an independent contractor. The IRS has a system to determine if someone is an independent contractor vs. employee.
2. Drones. The FAA maintains that drones used for commercial purposes, including real estate, are illegal.
3. Coming soon. Real Estate Owned (REO) companies commonly require pre-listing marketing. ADRE's position is that there must be written consent from the owner for the "coming soon" sign to be placed.
4. Minimum standard laws. These are included in some state's statutes.
5. State Regulatory Board. These boards, whose members may be industry representatives who oversee and regulate licensees, unlike our Real Estate Advisory Board, which makes suggestions, but does not regulate. Currently, there is a lawsuit involving a Dentistry Board which did not approve a license for a teeth-whitening business. In Arizona, the Office of Administrative Hearings can make determinations, but not the Real Estate Advisory Board.
6. Property Management. Property management issues are a major concern nationwide.
7. Community Association Management. Licensing of these organizations, which are separate from Homeowner Association Board of Directors, is being reviewed in some states

The Commissioner discussed the current issues for Arizona.

1. Property management.
2. Advertising. Commissioner Lowe mentioned the well-received article that Michelle Lind of the Arizona Association of REALTORS and she co-authored. The biggest issue in regards to advertising appears to be "clear and prominent." The Department's policy is only to open investigations for complaints, when the complaint is signed by the complainant. Most complainants are licensees and many just submit photos/advertisements without a signed complaint form.
3. Teams. Teams are causing confusion for consumers because they market themselves as if they are the company. The Commissioner asked Member Eslinger to comment on what AAR is doing to address Teams. Member Eslinger commented that AAR's stance is that Teams are a Broker issue. AAR will be providing webinars to educate Brokers on Teams. Commissioner Lowe thanked Member Eslinger for AAR's work concerning Teams and offered assistance from the Department. Member Waller commented to

Member Eslinger that this may be an opportunity for AAR to revise the disclosure form for consumers to indicate that the consumer understands how the team works under broker management. Member Eslinger stated that she will bring this to the attention of risk management when they meet on 1/10/15.

AC Dettorre provided an update on legislation, ADRE's strategic plan, and ADRE's budget. With the new legislature coming into session, AC Dettorre commented that the Department has feelers out to determine potential legislative issues for the real estate industry. AC Dettorre stated the Department will have to see what Governor-elect Ducey's priorities will be and how they relate to ADRE once he takes office. AC Dettorre commented that once the new legislature is in session, the Department may move forward with the Rules Revision package. AC Dettorre thanked everyone for their input into the proposed rules revision package.

Commissioner Lowe updated the committee on the Real Estate Advisory Board. The Advisory Board has a new member representing property management. The addition of the new member brings the current number of Advisory Board members to 10.

**V. 2014 ADRE Accomplishments – Commissioner Lowe**

The Advisory Board letter that was authored by Advisory Board Chair Kim Horn, which is sent to the Governor annually was read. This letter details the accomplishments of ADRE and the Advisory Board for the past year. The Commissioner described some of the accomplishments including the implementation of a web-based online payment system, streamlining the disclosure process, completing 626 audits year to date, online trust account reconciliation calculator and the progress of the records retention/ file room project. The letter from the Advisory Board Chair and the accomplishments document will be posted to the ADRE website, in the Commissioner's Office section.

**VI. Real Estate School Supervision Audit Declaration – Deadline 1/31/2015**

AC Randolph announced that the School Supervision Audit Declaration is required bi-annually and is currently due between December 15, 2014 and January 31, 2015. AC Randolph provided a handout of the school notice which details how to access the audit form and submit the audit to the Department.

**VII. Volunteer Monitor Program Update - Jim Williams**

Education Auditor Jim Williams stated that since the September 9, 2014, EAC meeting, 160 monitor assignments were made. Mr. Williams also informed the committee that between now and the end of 2014, 485 classes have been scheduled. Mr. Williams announced that State Senator Don Shooter successfully completed the ADRE Education monitor training program and is now one the department's monitors.

**VIII. Update on Pearson Vue (Pre-licensure Testing Vendor) – Carla Randolph**

AC Randolph updated the committee on Pearson Vue. She stated that their contract has been extended for one year and four more years afterwards. She mentioned that Pearson Vue notified all schools of a discrepancy found in the school summary report which will be fixed. AC Randolph discussed the Exam Performance Summary which showed an increase in the number of pass rates in October; however, AC Randolph commented the best way to judge school

performance would be to examine the pass rates for the entire year. A motion was put forward by the Advisory Board in October to research posting school performance reports; ADRE is currently looking into posting the reports. AC Randolph commented on the Pre-licensure Review Committee which is meeting on January 20<sup>th</sup>. The committee will look at school performance, as well as adding 10 additional sales questions to the state-specific exam. Member Hogan asked if the fail rates could be separated between national and state.

**IX. Review Education/Licensing Division Monthly Reports – Carla Randolph**

AC Randolph provided a review of the monthly report for the Education and Licensing Division (see handout).

**X. Upcoming.**

- School Audit Declaration forms are due by January 31, 2015.
- Consider posting annual school performance reports.
- AC Randolph mentioned instruction forms will be updated to include attestation for all schools where an instructor may teach.

**XI. Next EAC Meeting: March 10, 2015**

**XII. Other Matters**

None.

**XIII. Call to the Public**

Jenny Hogan commented that if school performance scores are posted, ADRE needs to make it clear to the public that there are two different exams, etc. and other factors considered when scoring.

**XIV. Adjournment**

Member Eckley made a motion to adjourn; the motion was seconded by Member Ryan. The meeting adjourned at 11:58 a.m.

**TEAM**

**“Together Everyone Achieves More”**

*Respectfully submitted this 10<sup>th</sup> day of March, 2015*

*Real Estate Education Advisory Committee*

  
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**Commissioner Lowe**