

Arizona Department of Real Estate (ADRE)  
Real Estate Advisory Board  
Minutes  
February 19, 2014

The Real Estate Advisory Board met on Wednesday, February 19, 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**

Chair Kim Horn called the meeting to order at 10:00 a.m.

**Members present:**

Kim Horn, Chair  
Carla Bowen  
Frank Dickens  
Bill Gray  
Scott Peterson

**Attending via teleconference:**

Dennis Wilenchik

**Absent**

Kimberly Clifton, Vice Chair  
Jo Ann Sabbagh  
Charlie Bowles

**ADRE Representatives present:**

Judy Lowe, Commissioner  
Louis Dettorre, Assistant Commissioner Operations/ Legislative Affairs  
Sarah Dobbins, Chief of Staff  
Mike Wheeler, Assistant Commissioner Regulatory Affairs  
Carla Randolph, Assistant Commissioner Licensing/ Education/ Development Services  
Marc Flamm, Intern

**Public present:**

Scott Drucker, AAR  
Courtney LeVinus, Capitol Consulting  
Melvin Comstock  
Bridget Bellavigna

**II. Update Assistant Commissioner Operations/ Legislative Affairs**

Assistant Commissioner (AC) Dettorre provided a status update on the current legislative session. He commented on five bills, currently in the legislative process, that relate to ADRE:

- SB 1215 Technical correction; real estate department: relates to unsubdivided land
- SB 1213 Real Estate Advisory Board; Membership
- HB2695 Homeowners' Associations amendments; omnibus
- HB2477 Homeowners' Associations; transfer fees; exemption
- HB2684 Real Estate Department; civil penalties

As Member Wilenchik had expressed interest in further discussing unlicensed activity, Commissioner Lowe requested that Assistant Commissioner Dettorre provide information on the Department's interactions on this item. AC Dettorre commented that the Department had spoken to the bill sponsor as well as the Attorney General's office.

### **III. Introductions & Welcome**

For the benefit of the members of the public in attendance, Chair Horn asked everyone in attendance to introduce themselves.

### **IV. Minutes**

Upon a motion by Member Bowen ; seconded by Member Dickens, the Minutes of the December 11, 2013 meeting were unanimously approved.

### **V. Election of 2014 Chair and Vice Chair**

Member Dickens made a motion to nominate Kim Horn as Chair and Kimberly Clifton as Vice Chair; with both terms to end on December 31, 2014.

Member Bowen seconded the motion; it passed unanimously.

### **VI. Commissioner's Report – Judy Lowe**

Commissioner Lowe asked Chair Horn to read aloud the cover letter to Governor Brewer that will go with the Advisory Board's Annual Report to the Governor. Chair Horn read the letter aloud and it was explained that this will be sent to the Governor's Office along with ADRE's accomplishments for the year 2013.

#### **a.) Budget:**

Commissioner Lowe reviewed the Executive Budget and what ADRE was approved for per the FY15 Executive Budget, which is now in the legislative process. In the Executive Budget for FY15, ADRE was approved for \$3.2M; one of the other items ADRE was approved for is 2 full-time positions.

#### **b.) Division Reports:**

See Assistant Commissioner Reports

#### **c.) Pending Issues**

- Commissioner Lowe commented that ADRE is preparing to release the RFP for the pre-license testing vendor. The Pearson Vue contract is set to expire April 2014.
- New ADRE law books have arrived. The cost is \$18 per book, \$3 for shipping, total \$21. Law books were distributed to Advisory Board members.
- Commissioner Lowe noted that the Department is working to finalize paperwork for the Rules Review which is due February 28, 2014. ADRE has requested an exemption to the moratorium on rules, in order to make revisions to current rules.

## **VII. Follow Up – Property Management Definition – Kim Horn**

Chair Horn commented that an informal group met to develop a definition for Property Management. She distributed a handout with the proposed definition. Chair Horn is working to get the language added to a current Bill so that it can go through the legislative process. She asked that the group review the definition and opened the floor for questions.

Members Dickens and Bowen commented.

Chair Horn called on Courtney LeVinus, with the Arizona Mutli-Housing Association (AMA), for comment. Ms. Levinus stated that members of AMA have asked what the reason is for developing this definition. Chair Horn responded by commenting that many agents are performing property management and do not realize that they are and that many times, because the agent may not know, their employing Broker also does not know. This will be a benefit to Brokers in being able to insure the activity of their agents. Commissioner Lowe commented that, from ADRE's perspective, if the industry wanted to see educational requirements put in place for those practicing property management, as has been requested by the industry, the Department must be able to identify who is a property manager. Without a definition, there is not a way for the Department to identify property managers and insure the necessary courses that could be specific to licensees practicing property management.

## **VIII. Assistant Commissioner Updates**

### **a.) Assistant Commissioner Regulatory Affairs – Mike Wheeler**

AC Wheeler commented that since January 1, 2014, 119 audits had been scheduled. The audits are a combination of onsite and electronic audits; of these 26 have been completed. Most are in compliance; for those who are not found in compliance, the Broker is being offered the opportunity to come to the Department for a conference to discuss the findings.

AC Wheeler also commented that, with regard to the previous ADRE cease and desist issued to Lester Curry in 2011, the Attorney General's office (AG) has been working with this case and the AG recently had a successful prosecution. Mr. Curry plead guilty to felony. The Consumer protection division at the Attorney General's office recently added a criminal attorney to their staff.

### **b.) Assistant Commissioner Licensing/ Education/ Development Services – Carla Randolph**

- AC Randolph commented that the usage of the on-line original application (which went live in May, 2013) is now up to 50%. She also noted the following for the licensing division;
  - NEW, courtesy email reminder for license expiration
  - January statistics included – 653 walk-in customers; 490 original applications
  - Use of the message center has increased; responses occur within 1 business day.

For Education AC Randolph reported:

- January statistics: 135 applications; 205 active schools; 970 approved instructors; 708 exams administered (including retakes)
- Pearson Vue, the pre-licensing testing vendor, is making minor modifications to the national exam outline for course and exam content.

For Development Services AC Randolph commented that the Department has one representative. For the month of January, 52 applications were received and processed.

#### **IX. Advisory Board Member Facilitator Reports:**

Member Bowen commented that she has received a number of calls regarding subdivisions. She noted that she had discussed drafting an article for Navajo and Apache Counties. She stated she would work with ADRE's Development Services Representative and draft an article.

Member Gray commented on 'Private Listing' Clubs. He commented that a student provided him with a screen shot of one. The concern is that listing agents are not identified and the ad states 'off-market'. As Mr. Drucker with Arizona Association of Realtors (AAR) has previously mentioned the Association was also doing some research around this issue, Member Gray provided a copy of the screen shot to Mr. Drucker.

Member Gray also commented on questions he received regarding advertising as a team and questions about directional signage for open houses.

Member Dickens commented that he received one call in December from an individual who was told by a real estate agent that he needed a public report. Member Dickens referred the individual to ADRE's Development Services Division.

#### **X. Other Matters:**

- Unlicensed Activity – AC Wheeler provided information and at a future meeting will discuss what is being observed. Information provided by AC Wheeler included the following:
  - FY 13 – 74 cases of unlicensed activity
  - FY 14 (since July, 2013) – 25 cases of unlicensed activity

He noted that some are licensees who failed to renew their license on time. ADRE is not seeing a lot of pure unlicensed activity.

AC Wheeler commented that ADRE would be meeting with the new criminal attorney from the AG's office and this would be one of the topics of discussion.

Commissioner Lowe commented that one of the other areas that needs to be looked at with regard to unlicensed activity is on-line companies and out of state individuals practicing Arizona real estate without an Arizona real estate license.

**XI. Call to the Public**

Mr. Drucker with AAR commented that he had met with Representative Hernandez, who sponsored the bill related to unlicensed activity, as well as the AG's office and a constituent regarding unlicensed activity. He commented that, although a Cease and Desist may be issued, since it is an administrative proceeding, this approach may not be strong enough and that they would like to see the Attorney General's office look at these types of cases from a criminal perspective.

**XII. The next Real Estate Advisory Board meeting is scheduled for Wednesday, April 23, 2014.**

**XIII. Adjournment – Chair Horn called the meeting adjourned at 12noon**

*Respectfully submitted this \_\_\_\_\_ day of April, 2014*

*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*