

**Arizona Department of Real Estate (ADRE)
Real Estate Advisory Board
Minutes
October 22, 2014**

The Real Estate Advisory Board met on Wednesday, October 22, 2014 at the Arizona Department of Real Estate (ADRE), 2910 N 44th Street, Commissioner's Conference Room, Phoenix, Arizona.

I. Call to Order

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

Members present:

Kim Horn, Chair
Kimberly Clifton, Vice-Chair
Charlie Bowles
Carla Bowen
Frank Dickens
Bill Gray
JoAnn Sabbagh, via phone
Scott Peterson

Absent

Dustin Jones
Nedra Halley

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
Kim Ellis, CSR

Public present:

Scott Drucker, Arizona Association of Realtors
Courtney LeVinus, Capitol Consulting
Harry Eastlick, Renewal Education Corporation
Jake Hinman, Capitol Consulting/Arizona Multihousing Association (AMA)
Kevin McClure, Arizona School of Real Estate and Business

II. Introductions & Welcome

Chair Horn welcomed everyone and asked visitors to introduce themselves. Chair Horn announced the appointment of a new member, Nedra Halley. Member Halley is the Owner/Broker of Dunlap & Magee Property Management and has been a licensed broker since 1985.

III. Approval of August 13, 2014 Meeting Minutes

Upon a motion by Member Bowles, seconded by Member Dickens, the Minutes of the August 13, 2014 meeting were unanimously approved.

IV. Commissioner's Report – Judy Lowe, Commissioner

a. Budget

Commissioner Lowe reported on the \$3.48 million FY 2016 budget request that was submitted at the beginning of September to the Governor's office.

Commissioner Lowe commented that the budget request includes money for three FTEs and for IT upgrades. Currently, over 75% of ADRE's computers are more than 7 years old. In addition, part of the IT budget request includes money to re-cable the ADRE portion of the building. The entire building is being re-cabled in order to update the phone system; in addition, there is a plan in place to centralize all State servers at ADOA.

b. Division Reports

See Assistant Commissioner Reports.

c. Department Report

Commissioner Lowe summarized the monthly licensing statistics, noting that the number of active licensees has increased slightly and the number of inactive licensees has decreased by approximately 12%.

Commissioner Lowe discussed that every State agency was required to submit to the Governor's Office a "transition package" to assist the new Governor's administration by giving an overview of each agency. Assistant Commissioner (AC) Dettorre reviewed some of the highlights of the transition package including ADRE accomplishments year to date. AC Dettorre mentioned the file room scanning project which is approximately 30% complete.

AC Dettorre updated the Board on the Recovery Fund statistics for the 2014 calendar year. Out of the seven completed applications that have been submitted, six involved claims against licensees who have been issued a Cease & Desist order. Thus far, the payouts for 2014 have totaled \$24,404.76. AC Dettorre further noted that in 2014, 15 Cease & Desist orders have been issued and 10 of those have involved property management companies. Also noted was that since FY 2010, trust account deficiencies total \$7,529,638.18.

Commissioner Lowe reported that she has been appointed to the Board of Directors of ARELLO. The Commissioner provided an overview of ARELLO and its committees, forums, and workgroups. The Commissioner stated that her appointment is a real honor.

d. Pending issues

Commissioner Lowe updated the Board on the proposed rule revisions meetings. Everyone who participated was sent a copy of a draft of proposed rule revisions which was submitted to the Governor's office. In the process of gathering feedback for proposed rule revisions, Commissioner Lowe and Michelle Lind from AAR developed an article on "Real Estate Advertising Rules & Guidance." This article was distributed to industry members through AAR and ADRE. AC Dettorre commented that the draft of the proposed revisions was submitted to the Governor's Office on October 17, 2014 and that there is no timetable for the Governor's Office to make a decision.

The Commissioner announced that the department would be "adopting a family" for the holiday season.

V. Assistant Commissioner Updates

a. Assistant Commissioner Regulatory Affairs – Mike Wheeler

AC Wheeler mentioned that the question arises as to how many audits are for property management and that this is difficult to answer when licensees do not identify if the licensee is providing property management.

AC Wheeler advised the Board that since July 2014, 75% of EBARs are in compliance, 97% of branch audits are in compliance, and 73% of main offices are in compliance. AC Wheeler discussed Quarterly Reviews, which are audits for a broker who has a Consent Order; only 65% of brokers who are under a Consent Order are compliant. AC Wheeler commented that the majority of Consent Orders are for property management and that these orders are a matter of public record, available for anyone to review on the ADRE site, and usually include a civil penalty and a provisional license; if there was a deficit in the trust account, then the Broker is usually required to obtain a surety bond. The Broker must then provide the department with a monthly reconciliation report of their trust account. Of note, 22 property management companies are under Quarterly Review.

AC Wheeler discussed that Investigations and Auditing is working in conjunction with the Government Transformation Office (GTO) to streamline processes. Chair Horn commended AC Wheeler on the streamlined processes that have been put into place and that have drastically reduced the number of days required for Investigations.

b. Assistant Commissioner Licensing Services – Carla Randolph

For Education, AC Randolph stated that education applications were closed in less than 5 days during September. AC Randolph also mentioned that a date will be set for the pre-license review meeting to consider adding 10 additional, state-specific questions on the exam. AC Randolph announced the next EAC meeting will be the second week in December and that the School Audit Declaration is due starting December 15, 2014 through January 31, 2015.

For Licensing, AC Randolph recapped the licensing statistics and announced that the online application process increased to 68%; there were 487 new licensees in September. AC Randolph commented on nickname violations and that the online system and the form applying to nicknames will be revised.

For Development Services, the number of applications decreased.

c. Assistant Commissioner Operations & Legislative Affairs – Louis Dettorre

See IVa. Commissioner's report, Department Report.

VI. Advisory Board Member Facilitator Reports

Vice-Chair Clifton reported that she received a call concerning a seller being upset about an agent that collected a referral fee from a solar panel leasing company for referring the buyer to the company; however, the buyer was unable to meet the credit requirements of the solar panel leasing company and the sale of the house fell apart. Vice-Chair Clifton contacted Scott Drucker with AAR.

Member Bowen reported receiving a call from an agent who wanted to refer someone to a property management agent. The concern was that the agent was unable to pinpoint online who is licensed to do property management. Member Bowen questioned if a way could be developed in order to flag who is qualified to do property management; currently, many companies advertise properties for rent, but they do not actually provide property management services.

Member Gray shared that he feels that the number of private listing clubs have started to decrease. Member Gray also reported receiving a call from a Broker who had severed an agent and was concerned about reporting the agent to ADRE for fear of becoming in trouble with the department themselves. Member Gray encouraged the Broker to report the agent to ADRE.

Members Peterson and Dickens each reported receiving a phone call from a woman whose son sold his home to his real estate agent, without notifying the lender that the home had sold. The agent then lease optioned the home and stopped making mortgage payments. Member Dickens advised the woman to send him something in writing that he would forward to ADRE.

Member Dickens then mentioned receiving a call concerning a commission dispute which he referred to AAR. Member Dickens also reported receiving a call from a woman who wanted her sister to make a claim against the Recovery Fund against her builder/agent because the home is now falling apart. Member Dickens advised that the sister would have to obtain a judgment first against the builder/agent; however, the woman stated they were reluctant to do that since the builder is their brother.

Chair Horn received two calls, both of which she referred to AC Randolph.

VII. Other Matters

- Follow up discussion, computerized basic and broker licensing programs

Member Gray reported that a few schools have contacted him and expressed concern that computerized pre-licensing courses do not actually consist of 90 hours of education and do not give real estate students the education that they need and, in fact, violate statute by not having live classroom instruction.

Chair Horn questioned if the Department has a pass/fail rate for the computerized method versus other methods of pre-licensure education. AC Randolph stated that pass/fail rates are not currently publicized.

Member Gray asked industry members present to provide their comments. Kevin McClure of the Arizona School of Real Estate and Business stated that a student called his school stating there was no instructor in the classroom and that they were concerned due to not passing the tests.

Member Sabbagh questioned if there is definition for monitor versus teacher and expressed that this sounds like a monitor situation.

Chair Horn asked if a Motion was needed. Member Dickens commented that the statutes are clear in that an instructor is required to be in the classroom.

Commissioner Lowe commented that the statute does require a live classroom for pre-licensure and that the question becomes “Is there an instructor in the classroom?”

Vice Chair Clifton made a Motion, seconded by Member Bowen, for ADRE to investigate what would be entailed to post pass/fail rates for schools. The Motion passed unanimously.

- **Harry Eastlick**

Harry Eastlick of Renewal Education Corporation wished to speak to the Board after seeing the minutes from the last Advisory Board meeting. Mr. Eastlick gave an overview of his background and as he requested to respond to each of the comments addressed in the minutes from the August meeting, he read aloud his responses and described how his course model operates.

Mr. Eastlick provided Board members with a copy of his responses to the comments and invited members to visit his school.

VIII. Call to the Public

NONE

IX. Next Real Estate Advisory Board meeting: December 10, 2014

X. Adjournment – Chair Horn called the meeting adjourned at 12:15 p.m.

Respectfully submitted this _____ day of December, 2014

Real Estate Advisory Board

Kim Horn, Chair

DRAFT