

Arizona Real Estate Advisory Board Meeting Minutes

Wednesday
October 18, 2023
10:00 a.m. - Noon
Arizona Department of Real Estate
Telephonically- Google Meet and In
Person
100 North 15th Avenue Suite 201
Phoenix, Arizona 85007

I. Call to Order – Kim Clifton, Chair

Chair Clifton called the meeting to order at 10:02 a.m.

II. Introductions & Welcome

Kim Clifton, Chair

Charlie Bowles, Vice Chair - Telephonically

Bill Gray

Judy Jackson

Luis Ramirez Thomas – Telephonically

Christine Shipley

Absent:

Carla Bowen

Matias Rosales

ADRE Representatives present:

Susan Nicolson, Commissioner

Mandy Neat, Deputy Commissioner (DC)

Abby Hansen, Chief of Staff (COS)

Marlee McCormick, Assistant Commissioner Licensing (AC)

Tim Andert - telephonically

Members of the Public present:

Nikki Salgat

Kristin Mack

III. Approval of August 2, 2023 Meeting Minutes.

Chair Clifton asked for a Motion to approve the August 2, 2023 Meeting Minutes.

Upon a motion by Member Jackson, seconded by Member Gray, the Minutes of August 2, 2023 meeting were unanimously approved.

IV. Advisory Board Member Respective Expertise and Facilitator Reports

Member Shipley stated Bed & Breakfast (B&B) rentals and multifamily residences being used as B&Bs are creating questions and concerns regarding sublease agreements.

Member Shipley indicated that her market is constantly driving the need to prove ownership in all transactions a licensee is involved in.

Member Gray received an email regarding a private club and the fees for that club being charged through his Home Owners Association (HOA). He directed them to the Department, and the individual indicated they had already talked with the Department but it did not fall under the HOA Dispute Petition Program.

Member Gray received an email from a resident in Rio Verde who had referenced that the Department was going to reopen and address the water issue that occurred there.

Member Gray stated it appeared that it was all taken care of.

Member Gray noted that they had all received an email from prior Commissioner Judy Lowe questioning Department statistics that were presently being referenced in budget requests. Some members indicated that they had not received the email. Chair Clifton apologized and noted this was uncharted territory and she should have forwarded it to all. Chair Clifton asked if Commissioner Nicolson would like to address the email.

Commissioner Nicolson stated she would wait until the facilitator reports were completed.

Member Jackson inquired about how she should solicit advice. DC Neat stated during Member Jackson's outreach programs she should ask if anyone had any issues they would like addressed with the Department.

Vice Chair Bowles received a call regarding a licensee that the caller claims has been bilking people out of four million dollars and was informed by ADRE that it was not within the Department's purview. DC Neat indicated that she would look into it.

Chair Clifton received a call relating to Home Owners Associations and the email from the previous Commissioner Lowe.

Commissioner Nicolson stated it is never easy to read a critique of your previous position and noted that her current budget request reflects back to the sunset audit that the Auditor General completed in 2021 and suggested that all members read the audit findings. Currently the Department has two auditors that are bogged down with audits that are aged over 200 days. Commissioner Nicolson referenced the audit and

indicated that the Auditor General found that the Department was not disciplining and investigating consistently across all complaints and now because of that audit finding the Department is required to investigate and audit in a different way.

Commissioner Nicolson stated that she regrets mentioning the previous Commissioner's name in the budget request but they are the facts and that she did not know these facts until the previous Commissioner disclosed them to her and she stands behind her decision that the Department needs eleven additional staff. Commissioner Nicolson also indicated that she was hopeful that the previous Commissioner would have been at the meeting.

Chair Clifton again apologized for not forwarding the email, but was unsure what to do. Commissioner Nicolson stated she was unsure as well and sent it to the Governor's office where they directed her to handle it as she saw fit.

V. Arizona Department of Real Estate Reports

Commissioner Nicolson stated that she has made significant progress with addressing deed fraud. The Department met with the Arizona Prosecuting Attorneys' Advisory Council (APAAC) which led to a meeting with the Attorney General Kris Mayes and some of her staff. That meeting has resulted in the Attorney General's office developing a contact person that licensees may refer these deed fraud issues as they occur and are active. Commissioner Nicolson stated that the Attorney General's office will handle the deed fraud issues and not forward them to the Federal Bureau of Investigations (FBI). Commissioner Nicolson indicated that she is working with the Arizona Association of REALTORS® (AAR) on an advisory regarding Joint Ventures and noted that she will not comment on another agencies statutes or Federal laws.

Commissioner Nicolson and DC Knupp will be attending a meeting in Tucson regarding regulation of HOA's, specifically how they are regulated in California.

VI. AC McCormick provided a brief legislative overview.

VII. Auditing and Investigations Process and Procedure Improvements

DC Neat mentioned that she had met with staff from the Corporation Commissioner and noted that the Corporate Transparency Act (CTA) becomes effective January 1, 2024. This will allow clearer understanding of entity structures and ownership.

DC Neat reviewed the Audit dashboard which reflected 21 open audits some of which have aged over 200 days.

Dc Neat and her recently hired manager of the Audit and Investigations division have laid out clear expectations for the auditors. DC Neat indicated that auditors should now

close out audits if requested paperwork is not received and the case should be sent to Enforcement and Compliance with the expectation that the brokerage will then be required to send in monthly proof that they are reconciling the brokerage records monthly.

DC Neat stated that Investigations have aged to an unacceptable rate but noted that in the last two weeks they are being closed at a much faster rate than ever before. DC Neat indicated that she and the Investigators are making calls directly to the licensees which is making the Designated Brokers upset.

Commissioner Nicolson noted that many complaints are not within the Department's jurisdiction but the Department is definitely opening all complaints under Title 32, Chapter 20.

DC Neat stated that the requests for information provide for more time to respond than is required under the Small Business Bill of Rights.

Commissioner Nicolson stated that Robin King is now handling the complex investigations and audits.

DC Neat stated that the biggest complaint that she receives is from brokers who indicate that these processes have never been done this way before. DC Neat stated she tells the callers "sorry but that's the way it is now".

DC Neat informed all that she will be working with Jackie Gunderson of the Education Division to implement an outreach program.

VIII. AC McCormick gave an update on an Education improvement process to be led by DC Neat that will revise the pre license education course outline to be very similar to the one that the state of North Carolina uses that is aligned with the Association of Real Estate License Law Officials (ARELLO) national exam.

AC McCormick indicated that a workgroup was scheduled for 10/19/2023 to address emails received by licensees offering to take their continuing education courses for the licensee. This workgroup will look for options to ensure the licensee is the person actually completed the course.

Member Gray stated many could already take a course using Artificial Intelligence (AI). DC Neat stated that AI is on the agenda for the 10/19/2023 meeting.

Chair Clifton inquired if the meeting was open to the public. AC McCormick stated its limited to eight people and not open to the public but if anyone is interested in future workgroups to please let her know.

IX. HOA Mediation Pilot Program

Commissioner Nicolson stated that three staff members have gone through mediation training.

X. Call to the public

Member of the public Kristin Mack asked if anyone had ideas to assist in addressing identity fraud to please contact her; christin.mack@azpremiertitle.com

Member of the public Angelika Johnson inquired if the Department had any priorities for the 2024 legislative session.

Commissioner Nicolson stated the process requires proposals be submitted through the legislative liaison to the Governor's office and when the Department gets the go ahead will release the information. AC McCormick noted the next Advisory Board meeting will be in January and at that time all should be aware of what has been proposed.

Member of the public Elly White inquired about short term rentals and lack of licensing. Commissioner Nicolson stated the Department does not have authority over rentals less than 31 days.

Member of the public Sally Ireland noted, regarding deed fraud, with more than 60% of homes belonging to an HOA, maybe HOA's could help identify the true identity of sellers. Member of the public Kristin Mack indicated that her industry (title) does currently contact HOA's and have found many to be very helpful.

Member of the public Nikki Salgat suggested that the newly trained HOA mediators may want to reach out to lawyers to have a conversation on the process and to understand why a petitioner may feel the need to file rather than resolve by working with their HOA.

XI. Dates of 2024 meetings to be sent to the Advisory Board Members for approval.

Chair Clifton stated that there are currently two openings on the Advisory Board if anyone knows someone who may be interested, please direct them to the Boards and Commission's department under the offices of the Governor.

XII. Adjournment at 11:30

Respectfully submitted this 17th day of January, 2024
Real Estate Advisory Board

Kim Clifton, Chair