

Arizona Real Estate Advisory Board Meeting Minutes

Wednesday
October 23, 2019
10:00 a.m. - Noon
Arizona Department of Real Estate
Training Conference Room
100 North 15th Avenue Suite 201
Phoenix, Arizona 85007

- I. Call to Order – Nedra Halley, Chair
Chair Halley called the meeting to order at 10:00 am.

- II. Introductions & Welcome
Members present:
Nedra Halley, Chair
Charlie Bowles, Vice-Chair
Karen Bohler
Kim Clifton
Bill Gray
Bruce Jacobs
Nicole LaSlavic
D. Christopher Ward

Absent:
Carla Bowen
Justin Rollins

ADRE Representatives present:
Judy Lowe, Commissioner
Louis Dettorre, Deputy Commissioner (DC)
Lancing Adams, Assistant Commissioner Licensing Services/CIO AMS
Abby Hansen, Chief of Staff
Lynette Evans, Assistant Attorney General

Public Present:

Susan Creedon, Tucson Territory Property Management
Melvin Comstock, America-One Realty Services, Inc.

III. Approval of July 17, 2019 Meeting Minutes

Chair Halley asked for a Motion to approve the July 17, 2019 Meeting Minutes.

Upon a motion by Vice Chair Bowles, seconded by Member Jacobs, the Minutes of the July 17, 2019 meeting were unanimously approved.

IV. Call to the Public

None

V. Advisory Board Member Facilitator Reports

- DC Dettorre provided an update and handout for all Board Members on the intention of Facilitator Reports and what the Department does when received. All reports should be directed to DC Dettorre.
- Member Clifton has received two and will forward to DC Dettorre.
- Member Gray received the following;
 1. Is the listing brokerages name required when another broker advertises the listing? Commissioner Lowe stated yes and referred to A.A.C. R4-28-502.
 2. Do Blogs require employing broker name?
Commissioner Lowe stated yes, it would require employing broker information clear and prominent anytime the intent is to procure or generate business.
Member Jacobs stated it would be the same as social media.
 3. Regarding Fix & Flips, brokers are advising agents (selling their own investments) that as long as they disclose the home was owned for one year, and repairs have been made by an unlicensed individual they are in compliance. The concern is that this does not address the requirement of the Registrar of Contractors that states that if a person is planning on living in the home for 12 months or more, then they can do the work themselves or hire handymen to do the work (as long as the total construction cost labor and material is under \$1,000). Otherwise, all work would need to be performed by a licensed contractor.

Commissioner Lowe referred Member Gray to the Arizona Association of Realtors® published material regarding fix and flips found on AAR's website and published in the ADRE Bulletin. Member Bohler noted that the Fix & Flip law is under the Registrar of Contractor's authority and questions should be directed to that agency. Member LaSlavic suggested that they should talk to their Designated Broker, and contact the legal hotline offered through the Arizona Association of REALTORS® (AAR).

Member Jacobs noted that many of Member Gray's inquiries are educator questions rather than Advisory Board Faciliator Reports.

4. Member Gray advised that in New York brokers want to sell property under tokenization, buy per square foot, and then sell using crypto currency. Member Gray is concerned with the record keeping aspect of these transactions. Member Ward asked how these transactions were different from a Master Limited Parnership (MLP), and if questions are received regarding these types of transactions individuals should be referred to a Securities Attorney.

- Member Bohler referred her inquiries to DC Dettorre prior to the meeting.
- Member Ward is involved with the water issues in Pinal County. It's too early to provide detailed information other than AZ Department of Water Resources has identified there may be insufficient groundwater in the area to support all existing uses over the next 100 years.
- Member LaSlavic received questions regarding the residential address for self-employed home based brokers being displayed on the public database, and reported that the issue had been resolved.
- Chair Halley received a call from a reporter; she returned their call and never heard back from them.

VI. Online Pre Licensing Education and Contract Writing

Member Bohler asked if there was a plan to offer the contract-writing course online. Commissioner Lowe stated the current application requires the course to be taught in classroom, be very specific to Arizona and with an instructor who is familiar with all Arizona requirements. If the course were offered online, it may be harder to control the content to ensure it remains specific to Arizona requirements. Commissioner Lowe noted that if movement is afoot to make it online the Department would appreciate knowing sooner rather than later to thoroughly have the issue addressed. Member Bohler stated there is movement

from a couple of powerful national schools. Member LaSlavic noted that it has not been brought to the AAR legislative committee.

Member Gray stated there is a push towards the Mithra Contract (a proprietary blockchain platform). Commissioner Lowe noted if that were the case then the Mithra Contract could be included in the course. Member Ward inquired, what is a Mithra Contract? Member Gray stated it is a model contract to fit all requirements with slight modifications by state, currently being beta tested.

A brief discussion about the benefits/use ensued. Commissioner Lowe then stated that all new “trends” take time to evolve, but the Department must address the needs of now, and what a licensee is required to know today.

Member Bohler then summarized that her understanding was that “the Department wants to keep a better handle on regulating the course, and the Department can do that easier if it is a classroom course”. Commissioner Lowe noted that without additional time to thoroughly research the issue Member Bohler had just summarized she would not give a “summarized response” at this time.

Member Bohler stated that in her Advisory role, bear in mind, the online contract writing is coming, sooner or later. Member Bohler stated that she is close with Kaplan, and they will get the legislation they need to, and it will happen.

VII. ADRE Reports

Commissioner Lowe provided the following;

- Arizona is reducing the barriers to occupational licensing.
- With the support of Governor Ducey, all agencies should be advocates for the State of Arizona, including issues around education, broadband access for the entire state, and the shortage of labor in construction. Commissioner Lowe noted that the homebuilder association members are working with prison inmates in training for skilled labor trades so that when those inmates are released they have the training needed to get a job. For six months Lyft and Uber provided free rides for downtown workers to Chandler/Gilbert.
- Agencies are working on developing culture to enhance staff loyalty.
- The Department has adopted Predictive Index (PI) as a tool to assist with staffing. The process involves defining the needs of a position, and some desired position behaviors. The Department has seen success with the program thus far.
- One of the biggest challenges of the Department is recruiting and retaining good staff.

- The Department continues its community outreach through travels and presentations throughout the state.
- The Department is currently hiring real estate financial Auditors.
- There has been lots of activity in the Department regarding Timeshares due to the new legislation. The new laws require disclosures that are more stringent, and the purchaser's rescission period has been increased from seven to ten days. The new laws required all time-share developers to modify and submit amendments to their applications and public reports.
- The Department has received and continues to receive a large number of inquiries, both by phone and Message Center, regarding the new Out of State License Recognition.

Member Jacobs asked what constitutes residency. Commissioner Lowe stated the Department uses the AZ Department of Revenue's definition, and has an attestation that the applicant must complete. She also noted that the Department has not seen an overwhelming number of applicants under this new law to date. Member Bohler asked why a contract-writing course is not required when qualifying for an "out-of-state license recognition" Brokers license. DC Dettorre stated that he understood it was addressed in the Broker Management Clinic. Member Bohler stated, in her Advisory role, they should be required to take the contract-writing course. Commissioner Lowe noted the Department would research further. Member LaSlavic suggested that the contract writing course requirement may not be allowed.

Member Bohler asked how many staff members are in the Education division. AC Adams indicated himself, a full time staff member, and a part-time staff member. Commissioner Lowe noted that education applications are down, and asked if Member Bohler had encountered, or was aware of issues.

Member Bohler stated, "no". Member Bohler asked what type of auditors the Department was hiring, internal or external. Commissioner Lowe stated external for field audits, as well as internal for electronic broker audit reviews (EBAR's). Member Bohler then asked if the Department had looked at the audit process and reiterated, "really looked into it". The Commissioner stated "yes", the audit process has been and continues to be reviewed, both as a standard of the Department, and as a natural process within the Arizona Management System (AMS). The Department has improved the Audit process from over 200 days to a current average of 52 days to complete. Commissioner Lowe asked Member Bohler if she had, or was aware of, any issues within the Audit process, Member Bohler stated, "no". Member Bohler asked what the new statute number was for the timeshare laws. DC

Dettorre stated it was HB2369 (Correction: HB2639), and believed the statute was A.R.S. § 32-2194, but would confirm. (Note: the correct statute is A.R.S. § 32-2197). Member Clifton reminded the Board that the purpose of the Advisory Board is to bring forth matters and concerns to the Department with the understanding that answers or details to questions will be provided at a subsequent meeting or through Department communication channels. Member Halley stated she had a meeting the previous day, and after mentioning that she had the Board meeting today, was told by the commercial agent that “the Commissioner has brought the Arizona Department of Real Estate into the 21st Century!”

- Provided the statistics for the HOA Dispute Petition Process. Member Gray stated ASU education department would like to develop courses and/or material regarding HOA issues, and he asked if the Department would like to have a meeting? Commissioner Lowe stated “yes, schedule a meeting”.

Deputy Commissioner Dettorre provided an update on the Department’s social media activity and Department statistics.

Assistant Commissioner Adams provided statistical information regarding Licensing, Education and Development Services.

- VIII. The Board approved the following dates for the 2020 Advisory Board Meetings;
- Wednesday January 22, 2020
 - Wednesday April 22, 2020
 - Wednesday July 22, 2020
 - Wednesday October 21, 2020

Motion to approve by Vice Chair Bowles, Member LaSlavic seconded. The Board confirmed all were in favor.

- IX. 2nd Call to the Public due to late arrival

Member of the public Mel Comstock stated that when trying to obtain a trust account on a signature card through a financial institution it is sometimes impossible. The financial institutions do not understand the requirement, for identifying the account as a “trust account”, he stated it is an audit requirement and would like to know how licensees can comply if financial institutions will not provide it.

DC Dettorre stated the Department, in conjunction with the Arizona Department of Financial Institutions planned to draft a Substantive Statement Policy to clearly state what the statute requires. Member Ward noted that the State Bar of Arizona requires trust accounts and they may be able to assist. Commissioner Lowe stated the Arizona Multi Housing Association (AMA) might be bringing something forward to the legislature regarding this.

- X. At noon, Member LaSlavic made a move to adjourn, Member Clifton seconded.

Respectfully submitted this 15th day of January, 2020

Real Estate Advisory Board



Nedra Halley, Chair