

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

REAL ESTATE COMMISSION  
MEETING MINUTES

December 4 - 5, 2013

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held December 4 - 5, 2013, at the State of Alaska Atwood Building Conference Room 1270, 550 W. 7<sup>th</sup> Avenue, Anchorage, Alaska.

Wednesday, December 4, 2013

Agenda Item 1a

Call to Order

Chairperson Anita Bates called the meeting to order at 9:00 a.m. at which time a quorum was established.

Roll Call

Members present:

Anita Bates, Broker at Large

Marianne Burke, Public Member

Stacy Risner, Associate Broker, 4<sup>th</sup> Judicial District

Nancy Davis, Broker, 1<sup>st</sup> Judicial District

Brad Cole, Associate Broker, 3<sup>rd</sup> Judicial District

Eric Bushnell, Associate Broker, Broker at Large joined the meeting at 9:07 a.m.

Cindy Cartledge, Public Member joined the meeting at 1:00 p.m.

Staff Present:

Sharon Walsh, Executive Administrator

Beata Smith, Licensing Examiner

Guest Present:

Harriet Milks, Assistant Attorney General

Ms. Milks spoke and gave the Commission members advice on revising the Consumer Pamphlet.

The Commission members worked on revising the Consumer Pamphlet.

Meeting adjourned at 4:21 p.m.

Commission adjourned until Thursday, December 5, 2013.

**Thursday, December 5, 2013**

**Agenda Item 1a**

**Call to Order**

Chairperson Anita Bates called the meeting to order at 9:01 a.m. at which time a quorum was established. Ms. Bates welcomed the newest public member to the Commission, Cindy Cartledge.

**Roll Call**

**Members present:**

Anita Bates, Broker at Large  
Eric Bushnell, Associate Broker, Broker at Large  
Marianne Burke, Public Member  
Stacy Risner, Associate Broker, 4<sup>th</sup> Judicial District  
Nancy Davis, Broker, 1<sup>st</sup> Judicial District  
Brad Cole, Associate Broker, 3<sup>rd</sup> Judicial District  
Cindy Cartledge, Public Member

**Staff Present:**

Sharon Walsh, Executive Administrator.  
Nancy Harris, Project Assistant  
Beata Smith, Licensing Examiner  
Quinten Warren, Chief Investigator  
Jennifer Wirawan, Investigator III  
Ed Riefle, Investigator II  
Sara Chambers, Division Operation Manager  
Don Habeger, Division Director

**Guest Present:**

David Gillespie, Dwell Realty  
Scott Myers, Jack White Real Estate  
Lawrence Pederson, Administrative Law Judge

**Guest Present via Telephone:**

Peggy Ann McConnochie, Alaska Coastal Homes

**Agenda Item 2a**

**Approval of Meeting Minutes**

**June 5, 2013 meeting minutes**

Commission members reviewed the June 5, 2013 meeting minutes as presented.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt the June 5, 2013 meeting minutes.**

There was further discussion.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to table until the Commission receives clarification from Investigator, Ms. Wirawan.**

**All in favor; Motion passed.**

September 17, 2013

Commission members reviewed the September 17, 2013 meeting minutes as presented.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt the September 17, 2013 meeting minutes.**

There were a couple minor corrections to the minutes.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt the September 17, 2013 meeting minutes as corrected.**

Ms. Cartledge abstained.

Mr. Cole: yes, Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes.

November 11, 2013 Teleconference

Commission members reviewed the November 11, 2013 meeting minutes as presented.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt the November 11, 2013 teleconference meeting minutes.**

Ms. Cartledge abstained.

Mr. Cole: yes, Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes.

Ms. Burke explained why she abstained from voting on the proposed fees at this meeting.

**Agenda Item 7a**

**Licensing Examiners Report**

Licensing Statistics

Ms. Smith presented the licensing report for the period of May 18, 2013 through September 12, 2013.

Expiration date of 1/31/2014:

- 43 new licensees
- 2281 total number of active licensees
- 2494 total number of licensees
- 86 total number of inactive licensees
- 15 total number of lapsed licensees
- 105 licensees broke contact with a broker
- 40 licensees completed their post-licensing education (PLE)

Since the last licensing report there were 8 main offices and 1 branch that opened.

**Agenda Item 6b**

**Regulation Tracker**

Ms. Smith presented the regulation tracker to the Commission members for their review. Ms. Smith also provided the Commission members with a list of all regulation projects that are still outstanding.

**Agenda Item 6c**

**Reporting on Fees Collected for RF July – November 2013**

Ms. Smith presented the Commission members with the fees collected for the Recovery Fund  
July - November 2013.

**Agenda Item 6d**

**Broker's Initials on All Applications**

Ms. Smith asked the Commission members to consider adding the broker's initials on the first page of each application.

**On a motion duly made by Mr. Bushnell, seconded by Ms. Davis, it was,**

**RESOLVED to approve all applications requiring fitness questions, to include the broker's initials at the bottom of the first page.**

Mr. Cole: yes, Ms. Davis: no, Mr. Bushnell: yes, Ms. Risner: no, Ms. Burke: yes, Ms. Cartledge: yes.

Motion carried.

**Agenda Item 6e**

**Office Closing Affidavit**

The Commission members discussed the Office Closing Affidavit form presented by staff.

**On a motion duly made by Ms. Davis, seconded by Mr. Bushnell, it was,**

**RESOLVED to table this form until March 2014 meeting for staff to make a complete package with sample form and adding Statutes and**

**Regulations.**

**All in favor; Motion passed.**

**Agenda Item 6f**

**Follow up to Eric Bushnell**

The Commission members reviewed the comparison in the numbers of licensees which was requested by Mr. Bushnell, between 2008 and 2013 time frame, at the September 2013 meeting.

**Agenda Item 3**

**Public Comment**

Ms. McConnochie spoke to the Commission members regarding the Consumer Pamphlet. She provided members with drafts of different pamphlets which are listed below.

- Base Consumer Disclosure
- Consumer Disclosure Landlord
- Consumer Disclosure Tenant
- Consumer Disclosure Commercial
- Consumer Disclosure Condominium Manager Option 1
- Consumer Disclosure Condominium Manager Option 2
- Waiver of Right to Be Represented Modified

**Agenda Item 4**

**Case OAH #13-0588-REC**

**On a motion duly made by Mr. Bushnell, seconded by Ms. Risner, it was,**

**RESOLVED to move into executive session to discuss investigative matters.**

**All in favor; Motion passed.**

Into executive session at 10:22 a.m.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to come out of executive session.**

**All in favor; Motion passed.**

Out of executive session at 10:35 a.m.

**On a motion duly made by Ms. Davis, seconded by Mr. Bushnell, it was,**

**RESOLVED to adopt Decision for Final Action, Case #OAH #13-0588-REC under authority of AS 44.64.060(e)(1)**

**All in favor; Motion passed.**

Decision for Final Action was adopted by the Commission in the matter of Sandra Nunes.

**On a motion duly made by Ms. Davis, seconded by Mr. Bushnell, it was, RESOLVED to move into executive session.**

**All in favor; Motion passed.**

Into executive session at 10:38 a.m.

**On a motion duly made by Ms. Burke, seconded by Ms. Davis, it was, RESOLVED to come out of executive session.**

**All in favor; Motion passed.**

Out of executive session at 10:43 a.m.

The Commission recessed for break at 10:43 a.m.  
The Commission reconvened from break at 10:55 a.m.

**On a motion duly made by Mr. Cole, seconded by Ms. Davis, it was, RESOLVED to support the Director's decision that governs the Executive Administrator's position.**

Ms. Burke made a friendly amendment.

**On a motion duly made by Ms. Burke, seconded by Ms. Davis, it was, RESOLVED to support the Director's efforts on behalf of the Executive Administrator.**

**All in favor; Motion passed.**

**Agenda Item 5a**  
**Education Statistics**

Ms. Harris presented the education statistics to the Commission. As of November 14, 2013 there are currently:

- 9 Pre-Licensing courses

- 248 Elective Continuing Education courses
- 58 Designated Continuing Education courses
- 83 Post Licensing Education courses
- 7 Broker Upgrade Pre Licensing courses
- 36 course sponsors
- 137 currently approved/permanent instructors
- 1 new instructors

There are no temporary instructors during this reporting period.

Ms. Harris presented the fees collected for Recovery Fund for FY13.

Mr. Bushnell had a question regarding obtaining an RFP for potential training for an AREC class during the June meeting. Mr. Bushnell asked if it would be possible to have a work session in the future and for the Commission to bring all the approved courses in to be looked at and determine what fits and what doesn't.

**On a motion duly made by Mr. Bushnell, seconded by Ms. Davis, it was,**

**RESOLVED for Ms. Harris to obtain a copy of all classes pertaining to licensing relationships to be provided for future work session to determine to move forward in outlining a class towards enforcing a new consumer pamphlet or the existing consumer pamphlet at the discretion, to determine later.**

Ms. Davis and Ms. Burke both expressed concern about timing of this motion and suggested it wait until the Consumer Pamphlet had been revised.

Mr. Cole: no, Ms. Davis: no, Mr. Bushnell: yes, Ms. Risner: no, Ms. Burke: no.

Motion failed.

#### **Agenda Item 5b**

##### **Instructor Certification Review**

Ms. Harris updated the Commission members with the instructor certification review.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to approve Greg Erkins' request for an instructor certificate.**

**All in favor; Motion passed.**

#### **Agenda Item 5c**

##### **PLE Certificate**

Ms. Harris updated the Commission members with the PLE certificate information. Mr.

Bernard did in-fact retake the 30 hours Post-licensing education.

**Agenda Item 5c**

**Proposed Regulations for Course & Instructors**

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to table Proposed Regulations for Course & Instructors until March 2014 meeting.**

**All in favor; Motion passed.**

**Agenda Item 5d**

**Consent Agreements**

This agenda item was tabled until after lunch. No motion was made.

**Agenda Item 3 cont'd.**

Ms. McConnochie continued talking to the Commission members regarding the Consumer pamphlet drafts she provided the members.

The Commission recessed for lunch at 12:00 p.m.

The Commission reconvened from lunch at 1:00 p.m.

Note: Chairperson Bates informed the Commission that Sara Chambers just informed her that due to the inclement weather conditions that Division staff was being sent home at staggered times so early closure of State offices would be taking place. Ms. Bates suggested an early departure and table items to be taken up with a teleconference later in the month.

**Agenda Item 8a**

**Statistical Report**

Ms. Wirawan presented the statistical report to the Commission members for their review. The following information is compiled as an Investigative Report for the period September 4, 2013 through November 17, 2013.

- 22 opened files
- 20 closed Real Estate matters
- 25 open complaints
- 2 closed complaints
- 35 open investigations
- 5 closed investigations
- 3 license actions

**Agenda Item 8d**

**Probation Report**

Mr. Riefle presented the Commission members with the probation report. There are no



reports of public safety issues requiring the Commission's immediate attention.

**Agenda Item 8c**

**Proposed Statutes Change to 08.88.071**

Ms. Wirawan asked the Commission members for approval to add a section to 08.88.071. She said REC does not have a statute that says that they can take disciplinary action against an individual who violates an order of the Commission. It is in Centralized licensing but is not as strong as if it were in the REC's statutes. She said some of the other boards have this in their statutes.

Ms. Burke asked that this be taken up by a sponsor/Legislator and not go through the Alaska Association of Realtors to find a sponsor. Ms. Davis asked Ms. Burke who she is considering to do this? Ms. Burke said we all know Legislators and to ask one of them. She went on to explain that she has a problem with the Commission asking for the industry association to do something for us. In addition she stated there should be a wall between what we do and industry does, because we are the regulators. Mr. Bushnell said he knows Legislators that he could talk to in Eagle River.

**On a motion duly made by Ms. Davis, seconded by Mr. Bushnell, it was,**

**RESOLVED to adopt 08.88.071 by adding section (J).**

**To read: (J) failed to comply with a provision of this chapter, a regulation adopted under this chapter, or an order of the Commission.**

**Ms. Burke asked for a friendly amendment to the motion by Ms. Davis and Mr. Bushnell, upon accepting, Ms. Burke stated that it also include consideration for the REC to seek legislative action to do this.**

**All in favor; Motion passed.**

Ms. Wirawan informed the Commission members that she attended the ARELLO Investigator conference in Baton Rouge, Louisiana and that it was very informative, she learned a lot and met a lot of great people. Louisiana Real Estate Commission was very welcoming.

**Agenda Item 8b**

**Investigative Matters**

**On a motion duly made by Mr. Bushnell, seconded by Ms. Risner, it was,**

**RESOLVED to move into executive session to discuss investigative matters.**

**All in favor; Motion passed.**

Into executive session at 1:13 p.m.

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,  
RESOLVED to come out of executive session.**

**All in favor; Motion passed.**

Out of executive session at 1:39 p.m.

Case #2010-001-011 and 2011-000-405

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,  
RESOLVED to adopt the Imposition of Civil Fine, Case #2010-001-011  
and 2011-000-405.**

Mr. Cole abstained.

Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes, Ms. Cartledge: yes.

Imposition of Civil Fine has been adopted in the matter of William Jacques.

Case #2010-001-012

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,  
RESOLVED to adopt the Imposition of Civil Fine, Case #2010-001-012**

Mr. Cole abstained.

Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes, Ms. Cartledge: yes.

Imposition of Civil Fine has been adopted in the matter of Mary Jo Cunniff.

Case #2011-000-398

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,  
RESOLVED to adopt the Imposition of Civil Fine, Case #2011-000-398**

Mr. Cole abstained.

Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes, Ms. Cartledge: yes.

Imposition of Civil Fine has been adopted in the matter of Careen Muir.

Case #2011-000-937

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,**

**RESOLVED to adopt the Imposition of Civil Fine, Case #2011-000-937**

Mr. Cole abstained.

Ms. Davis: yes, Mr. Bushnell: yes, Ms. Risner: yes, Ms. Burke: yes, Ms. Cartledge: yes.

Imposition of Civil Fine has been adopted in the matter of Caura Reed.

Case # 3000-10-040, 3000-10-041, 2013-002207, 2013-002249

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,**

**RESOLVED to approve the Surrender of License, Case # 3000-10-040,  
3000-10-041, 2013-002207, 2013-002249**

**All in favor; Motion passed.**

Surrender of License has been adopted in the matter of Robert Ziegler.

**Agenda Item 5d**

**Consent Agreements**

**Case #2013-000372**

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt Consent Agreement, Case #2013-000372**

**All in favor; Motion passed.**

Consent Agreement was adopted in the matter of Ronald D. Nelson

**Case #2013-000366**

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt Consent Agreement, Case #2013-000366**

**All in favor; Motion passed.**

Consent Agreement was adopted in the matter of Tina Steenmeyer.

Case #2013-000351

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was,**

**RESOLVED to adopt Consent Agreement, Case #2013-000351**

**All in favor; Motion passed.**

Consent Agreement was adopted in the matter of Raney E. Hardman.

Ms. Walsh shared a letter from Tina Steenmeyer with the Commission members regarding dismissal of the civil fine. The Commission members made the decision to not dismiss the civil fine for Ms. Steenmeyer.

The Commission recessed for break at 1:30 p.m.  
The Commission reconvened from break at 1:39 p.m.

**Agenda Item 10a**

**Division Issues**

Director Habeger and Sara Chambers address the REC

Don Habeger, Division Director had a response to the letter received from the Commission.

1. Reinstating the Project Assistant's position as a full time employee to the Real Estate Commission.
2. Project Assistant's position being fully funded by the Recovery Fund.

The REC staff was asked to provide a desk audit on how they spend their time and what activity are they doing for REC. After reviewing this, Mr. Habeger didn't think that the Real Estate Commission necessarily requires three positions. The recommendation is that REC will have two staff members. Mr. Habeger proposed to reinstate the Project Assistant to full time to the Real Estate Commission. There will not be any changes in the number of personnel in the Division, but the current Real Estate Licensing Examiner will be reallocated to other programs and the REC will have two positions, Executive Administrator and Project Assistant. Mr. Habeger stated that the Division will continue to use 10% of the recovery fund for the Executive Administrator and 50% for the Project Assistant. If that changes we will reassign funding. This change will become effective at the beginning of the calendar year.

Ms. Burke asked Mr. Habeger if he considered statutes, specifically statute 08.88.472, which states *'The commission may charge the real estate recovery fund for expenses related to fund operations.'* It further states *'If the salary of an employee is entirely or partially paid for from money in the real estate recovery fund, the employee may perform administrative duties for the commission in addition to any duties the employee performs that are related to the real estate recovery fund.'* This Commission can charge 100% of the Project Assistant's under this statute to the recovery fund and that person can do other duties for the Real Estate Commission. Ms. Bates stated that 50% will be paid out of the Recovery Fund and the other 50% out of the Real Estate Commission personnel allocation. Ms. Burke said that

it is the Commission's decision on what will be charged to the Recovery Fund and it specifically gives them the authority to have that person do other things for this Commission in addition to the Recovery Fund activities. Mr. Habeger stated that he will further review the statutes. He said he will re-evaluate this taking into account the statute 08.88.472. After further review, Mr. Habeger stated he would have no problem paying 100% out of the Recovery Fund. Mr. Bushnell stated that Mr. Habeger is making comparisons to other boards based on the amount of licensees, not withstanding investigations, does the scope of work for other boards, is the same as it is for the Real Estate Commission? Mr. Habeger stated that all boards are very similar. Ms. Burke stated that having sat on the CPA Board, and the amount of work per licensee, there is no comparison. The licensees have more regulations and accountability to the Commission and Mr. Habeger stated that this change will be effective January 1, 2014 unless he hears something back from the Commission members. Mr. Bushnell asked for Mr. Habeger to email the Commission members a memo on his findings. Mr. Habeger stated that he will email it to Ms. Walsh and she can distribute it to the Commission members.

Ms. Chambers discussed the financial reports and HB187 with the Commission members. Ms. Chambers discussed actuals for FY14 and stated that the Commission were interested in trends and seeing the direction in which the finances flow. Ms. Burke stated that she has different versions of the report and asked which one is the final one. Ms. Chambers stated that she provided the final document to the Executive Administrator few months ago. Ms. Burke stated that she expects changes in the current year, but why would there be changes in the past years? Ms. Chambers stated that the true up was a process that they went through in response to the legislature reallocation of funds that has been expended from corporation and business licensing and it should have been in professional licensing. The changes that were seen in the past are because the team went back and found errors, oversights, and problems over the last ten years. Ms. Burke asked Ms. Chambers if she recalls, roughly, the true-up number. Ms. Chambers stated that she did not know the information at that time but they do have that information. The task is going back and how it impacts the budget as well as the influx of the additional funds. Ms. Burke asked for the final numbers by the year, after the true up. Ms. Burke asked how far along in the data processing are we to know what the various aspects of the revenue are? Ms. Chambers stated that this is a longer term project and there are limited resources. Mr. Habeger stated that the encumbrance is an actual figure and is a term that means funds were taken out of the main stream and set aside for a specific activity. Ms. Burke asked about the total number for management and consulting services. Ms. Chambers stated that the number is the cost of the Administrative Services Division and Commissioners Office and each of the agencies that the Commissioner's Office and Administrative Services Division administer shares in that cost and this is the portion of that amount. Ms. Burke then stated that roughly one-quarter of the costs overhead. Ms. Chambers agreed. During the last Real Estate Commission meeting the Commission members asked Ms. Chambers a number of questions which she said she will have the answers to during this meeting. Ms. Chambers stated that she will spend more time on the issues and that many of the questions have been answered here today, the indirect detail and the 10-year true-up document. However, some of the questions still appear to be on the table, regarding HB187. Ms. Burke stated

that many of her questions regarding HB187 didn't make it into the meeting minutes from September.

Director Habeger found some of the questions and addressed them today:

How does the board or commission recommend a change fee?

Mr. Habeger stated that it is in the Legislature now. Ms. Chambers spoke about addressing the Legislature by staff. She reiterated that individuals do not speak on behalf of the REC but may if they are directed to do so by the REC and if the REC has taken an official position on an issue. Mr. Habeger stated that there are other questions he would address. REC members discussed the road conditions and road closures.

The Commission members scheduled a teleconference for December 12, 2013 at 1:30 p.m. to finish up the remaining agenda items due to current weather conditions.

**On a motion duly made by Ms. Davis, seconded by Ms. Burke, it was,**

**RESOLVED to adjourn meeting.**

**All in favor; Motion passed.**

Meeting adjourned at 3:05 p.m.

Commission adjourned until the next regular scheduled meeting on March 5, 2014 in Anchorage.

Resubmitted by Sharon Walsh

Approved:

Anita Bates  
Anita Bates, Chairperson  
Alaska Real Estate Commission

Date: 6/18/2014