1	OTATE OF ALAQUA			
2 3	STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT			
4 5	DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSIN			
6	BOARD OF CERTIFIED REAL ESTATE APPRAISERS			
7	MEETING MINUTES			
8				
9	June 9, 2021			
10	Dec. 11. 15. (AO 00 04 070/0)			
11 12	By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a			
13	scheduled meeting of the Board of Certified Real Estate Appraisers was held June 9, 2021, at the State of Alaska Atwood Building, 550 W. 7 <sup>th</sup> Avenue, Suite 1550, via Zoom, Anchorage,			
14	Alaska.			
15	•			
16				
17	Wednesday, June 9, 2021			
18	Agenda Item 1 - Call to Order			
19	Chairperson Ashlee Stetson called the meeting to order at 10:05 a.m., at which time a quorum			
20	was established. Shyla Consalo, Executive Administrator for the Real Estate Commission,			
21 22	introduced Division staff, and explained that she would be assisting the Board in running their meeting with the help of Deputy Director Sharon Walsh and Records & Licensing Supervisor			
23	Terry Ryals.			
24	·			
25	Roll Call			
26	Members Present via Zoom			
27	Ashley Stetson, Public Member, Chairperson			
28	Val Kudryn, Certified Residential Real Estate Appraiser			
29	Mae Hayes, Certified Residential Real Estate Appraiser			
30 31	Leon McKean, Mortgage Banking Executive			
32	Staff Present:			
33	Shyla Consalo, Executive Administrator (REC)			
34	Sharon Walsh, CBPL Deputy Director			
35	Terry Ryals, Records & Licensing Supervisor			
36				
37	Staff Present via Zoom:			
38 39	Erika Prieksat, Senior Investigator Marilyn Zimmerman, Paralegal			
40	Sara Chambers, CBPL Director			
41	Greg Francois, Chief Investigator			
42	Colleen Kautz, Program Coordinator			
43	, 0			
44	Review/Approve Agenda			
45	Board Members reviewed the meeting agenda.			
46				
47 40	On a motion duly made by Mr. Kudryn, seconded by Ms. Hayes, it was			
48 49	RESOLVED to approve the meeting agenda for June 9, 2021.			
50	NESOLVED to approve the meeting agenda for June 9, 2021.			
51	The motion passed unanimously.			

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5	3

#### Ethics Report

There were no ethics reports to be made.

### 

# Continuing Education Statement

Chair Stetson asked if there was anyone present who would like the meeting to count as Continuing Education. Mr. Kudryn and Ms. Hayes both indicated they would like the meeting to count towards their continuing education credits.

# Agenda Item 2 - Introduce New Board Members

Leon McKean introduced himself as part of the Board representing the mortgage industry. Based in Anchorage, he is bringing 14 years of experience in Alaska to the Board. Chair Stetson and the other Board members welcomed him, and thanked him for his service. Chair Stetson gave a brief introduction to Board procedures and emphasized the importance of staying within the parameters of the regulations.

# Agenda Item 3 - Review/Approve Past Meeting Minutes

March 24, 2021

Ms. Hayes offered corrections to the board packet, stating that she was not a mortgage representative and that Mr. Kudryn is not from Sitka. Mr. Kudryn replied that he is a Certified Residential Real Estate Appraiser from Wasilla, Alaska. Ms. Hayes replied that she is also a Certified Residential Real Estate Appraiser from Wasilla.

On a motion duly made by Ms. Hayes, seconded by Mr. Kudryn, it was

RESOLVED to approve the meeting minutes for March 24, 2021.

The motion passed by majority. (Mr. McKean abstained)

Chair Stetson apologized and noted two needed amendments: Line 165 has David Derry as Chair, and her signature is required. She said they also need to change the examiner that signs off on it, as Joseph Bonnell is no longer working with the Division. Mr. Ryals stated that he would be signing in Mr. Bonnell's place.

On a motion duly made by Ms. Hayes, seconded by Mr. Kudryn, it was

RESOLVED to rescind the approval of the meeting minutes for March 24, 2021.

The motion passed unanimously.

On a motion duly made by Ms. Hayes, seconded by Mr. Kudryn, it was

RESOLVED to approve the meeting minutes for March 24, 2021, as amended.

The motion passed unanimously.

## Agenda Item 4 - Public Comment

There was no public comment.

# Agenda Item 5 – Investigations

107 Investigative Report

Senior Investigator Erika Prieksat introduced herself, and provided a review of the investigations report. Investigator Prieksat stated there were 6 open matters from March 11, 2021 – May 26, 2021, and 1 matter was closed. She then asked if there were any questions. Ms. Consalo asked Investigator Prieksat to provide a brief explanation of the how the investigative report is compiled. Investigator Prieksat explained the purpose of the investigative report, how the information is compiled, and why the information was limited (confidentiality of open cases). Investigator Prieksat then asked if the Board had any questions about the investigative case she prepared for the Board's consideration. The Board & Division staff were unaware of a second investigative matter needing to be considered at this meeting; however, Ms. Consalo suggested Investigator Prieksat send the information to her, so she could distribute to the Board members to review during their lunch break. Ms. Consalo stated she would contact Investigator Prieksat after the lunch break, when the Board was ready to consider the matter. All Board members agreed.

Ms. Stetson then indicated the Board would need to go into Executive Session to discuss the investigative matter the Division Paralegal, Marilyn Zimmerman, prepared for the Board's consideration.

On a motion duly made by Mr. Kudryn, seconded by Mr. McKean, it was

RESOLVED to go into Executive Session in accordance with AS 44.62.310(c) for the purpose of discussing subjects that tend to prejudice the reputation and character of any person.

The motion passed unanimously.

The Board went into Executive Session at 10:35 a.m.

On a motion duly made by Ms. Hayes, seconded by Mr. Kudryn, it was

RESOLVED to come out of Executive Session.

The Board came out of Executive Session at 10:45 a.m.

On a motion duly made by Ms. Hayes, seconded by Mr. McKean, it was

RESOLVED to approve the Consent Agreement for case #2020-000192.

Roll call vote: Ms. Hayes – yes, Mr. Kudryn – yes, Mr. McKean – yes, and Ms. Stetson – yes.

Motion passed.

The Board accepted the Consent Agreement for case #2020-000192.

Break at 10:55 a.m.

Reconvene at 11:03 a.m.

## Agenda Item 6 - Regulations Project

# CE Credits Online/Classroom

Chair Stetson confirmed the regulations that were in the Board packet were the current regulations. She stated the Board should consider allowing licensees to earn online or remote continuing education credits. Chair Stetson added that while there is a provision within their regulations allowing some online learning, with more movement towards digital learning and board business being conducted remotely, the Board should look at allowing more continuing education credits to be earned online. She asked her fellow Board members to review the regulations and determine if that is a change they would like to see in the industry. She added that if this requires a statutory change, the Board would require legislative support to move forward with that change; if it was a regulatory change, the Board would go through a regulations project, which does not require legislative support and is a slightly less strenuous process.

Ms. Hayes had a previously prepared statement regarding qualifying education no longer being limited to the classroom and asked when the appropriate time was to present it to the Board. Chair Stetson replied that this was a good time, as they were on the topic of regulations and that it is the Board's responsibility to change them, as needed, for the industry. She added that they are still in the discussion phase and would eventually submit a proposal for a needed change to the Division.

 Ms. Consalo then explained the regulation change process. She indicated the Board would create and submit an outline/document to Board staff with recommended changes. Board staff would then create a document to send out to all Board members for review/additional input. The document would then be discussed/amended/approved at the next meeting, and sent to the Regulations Specialist. The draft would then be presented to the Board for approval to be sent out for public comment, and would come back to the Board at the next meeting after public comment for the Board to make any final amendments/approvals.

Ms. Hayes stated that she prepared a draft for the removal of "in person" education and asked for a deadline for presenting it. Ms. Consalo replied that she would send the draft document to the other Board members before the next meeting in order to collect everyone's input. Mr. Kudryn agreed, noting that while networking at in-person classes is advantageous, online and remote learning would ease meeting education requirements. Chair Stetson concurred, adding that networking, while vital, is not regulated, which may have deterred the previous Board members from moving forward. She expressed excitement to see what Ms. Hayes has prepared. Mr. Kudryn asked how the drafts will be sent as to keep Board business within bounds. Ms. Consalo stated she would be the main point of communication for all Board members.

#### Definition of Employee for AMCs

Chair Stetson provided a definition of employees for AMCs. She stated that Real Estate Appraisers aren't considered "employees" since they work more as "independent contractors", and she hoped to provide more clarification within the regulation. Chair Stetson recommended to Ms. Consalo that if the Board was to move forward with regulations projects, they should clean up the language. Ms. Consalo agreed, stating that the Board should combine their recommended changes into one project. Chair Stetson added that there haven't been any problems with the definition for employees, but it did initiate a change in the AMC application

forms, and that the Board needs to keep its intent clear. Chair Stetson stated she didn't want to redefine words within statutes, but to provide a better framework for their use. Chair Stetson added that providing clarification to the industry and the general public would be beneficial.

### Agenda Item 8 - Restricting Appraisers Discussion

Guest from Real Estate Commission

Ms. Hayes introduced the subject as leftover business from the last meeting, where she had expressed concern, and then asked a representative from the Real Estate Commission (Commission) to join them. Ms. Hayes requested opening a dialogue on developing an approved course that educates appraisers on how real estate licensees operate and vice versa, to help demonstrate the symbiotic relationship between the professions. She added that, in her experience, the professions tend to villainize each other, as they don't understand each other's roles in the industry. While real estate licensees advocate for their clients, appraisers provide unbiased data. Ms. Hayes stated that if realtors exclude excessive amounts of appraisers in a small market like Alaska because appraised value doesn't meet expected sale price - the market as well as the clientele base can be affected negatively. She asked if there was a way to communicate with the Commission the concerns of the Board that, while not against regulations, the habit of excluding multiple appraisers over sale price is harmful in practice.

Ms. Walsh recommended that Ms. Hayes attend the upcoming Commission meeting and address her concerns and gain feedback during the public comment period. She also told Ms. Hayes to let them know that she's willing to create and send a letter to licensees to raise awareness of the issue. Ms. Consalo added that she could also raise concerns as an individual appraiser during the public comment period.

Ms. Hayes asked how the Board members would like her to address the Commission at the upcoming meeting. Mr. Kudryn replied that Ms. Hayes should address the Commission as an individual because it would allow her more freedom to express opinions. Chair Stetson added that she doesn't find it inappropriate for the Board to have an opinion regarding an industry restricting its licensees' ability to compete, but thinks that regarding the education component, Ms. Hayes could best present that individually at the meeting.

Ms. Hayes further expressed concern that appraisers would become less unbiased in their work under the threat of losing contracts from brokerages trying to raise the appraisal price. Chair Stetson advised that the Board address the situation regarding the effects on their licensees only, and to not offer judgement on other Boards' licensees. Ms. Consalo stated that Ms. Hayes presenting her education opportunity to the Commission was a great way to bring attention to the situation, have the Board's concerns recorded as public record, and provide an opportunity for continuing education credits to the Commission's licensees. She added that Ms. Hayes should do so as a public member.

Mr. Kudryn asked if there is a mechanism to let appraisers know they've been excluded and if there is another division or Board that they can address these issues with. Ms. Consalo replied that the Commission can't dictate what brokers or brokerages put into their contracts. Mr. McKean stated that he hears about appraiser exclusions more frequently on VA appraisals. He agreed with Ms. Hayes' position, adding that once brokerages start excluding multiple appraisers from contracts, it becomes a slippery slope and a workaround for who receives the report. Ms. Hayes replied that she was excluded from a contract this morning before the Board meeting, and that she has noticed a pattern in the rise of exclusions. She added that she will attend the Commission's upcoming meeting as a member of the public and draft a letter for the

Board to consider at their next meeting. Chair Stetson agreed that a letter would be appropriate for review, as the Board does need to advocate for their licensees.

Ms. Walsh added that if Ms. Hayes were to come back and give feedback after the Commission meeting, the Board should decide whether to eventually get the Department of Law involved with reviewing any document the Board wishes to post as an opinion of the Board; however, in order to get legal involved, the Board would have to make a motion and agree, as the Board would incur legal costs. Chair Stetson agreed, as did Mr. Kudryn and Ms. Consalo.

Break for lunch at 11:57 a.m. Reconvene at 1:00 p.m.

# Agenda Item 7 - Division Update

# FY21 Q3 Financials

Director Sara Chambers provided a review of the 3<sup>rd</sup> quarter financial report. She reviewed the historical schedule of revenues and expenditures, explaining how the fluctuations occur in sync with renewal seasons. She then clarified the breakdown between investigative versus non-investigative expenditures. Director Chambers broke down interagency and mediation costs, which occur when the Office of Administrative Hearings (OAH) gets involved with a Board's decision regarding a licensee. She described how direct and indirect expenses are accrued by individual Boards, and explained that the State goes into a reappropriation period each fall after the fiscal year has closed, and collects operating expenses gathered from all Boards, allocating charges to each Board based on the size of the program. She then explained how surpluses and deficits transfer from year to year on Boards, and that it's not uncommon for a program to have a rolling deficit or surplus.

Mr. McKean asked about the change in personnel services that double the expense in 2019. Chair Stetson replied that year, regulations were established to allow AMCs, which were an entirely new branch to the program. Director Chambers agreed, as additional staff would have been assisting during that transition time. Mr. McKean then noted the measured increase in investigative costs over the past 5 years. Director Chambers replied that there was a license denial process that went on for over a year and had involved attorneys, appeal of the Board's decision, and ultimately the negotiation and acceptance of the applicant to withdraw his application. She added that with Board turnover, there were less licensed appraisers to perform reviews, so funds were also used on expert witnesses to compensate.

Mr. McKean then noted that the Board had been carrying a surplus and asked what the target surplus was for any program. Director Chambers explained how program costs were covered by the licensing fees, and that regular fee analysis projects occur to determine the best way to maintain fair fee costs while keeping the programs functional. She added that the goal for each program was to have a year's worth of expenses as a surplus, and that it is a balance to keep licensing fees somewhat consistent while allowing a program to stay afloat. Director Chambers then stated that with the fiscal year ending, this upcoming fall would provide the Board with more detailed information into their expenses and revenues.

### **Board Training**

Director Chambers provided foundational concepts from the Division that were applicable throughout all programs, including the Division's mission statement to inspire public confidence through balanced regulation of competent professional and business services. She explained

how the Division is broken down into professional licensing, business licensing, corporate registration, enforcement staff, and administrative support. She then explained how the various staff positions provide support for programs, through administrative functions, policy guidance, or consultation.

Director Chambers explained the licensing process and how it involves board members. She outlined and described the responsibilities for both the applicants and the Board. She explained the Division's process once a completed application is received, including the investigative process, should it be required. She then described how completed applications are reviewed and voted on by the Board and gave examples of licensure timelines. Director Chambers introduced the Division's online portal, which gives licensees access to their license file, the ability to renew online, and provides real-time access. She gave an example of an application in process and showed how Portal is used to maintain communication and keep licensing moving forward.

Director Chambers provided information on the roles and responsibilities of Boards, many of which are outlined in State of Alaska laws and statutes. Director Chambers described how the Division supports the Board by providing consulting and administrative services to assist the Boards in accomplishing their mission. She briefly introduced the investigative process, and how Board members play a role in that process. She emphasized both the gravity of their responsibility and the support the Division provides when determining the fate of licensees.

Chair Stetson asked about who drafts a specific compliance order for the Board to review, and where it falls in the investigations process by the time it is put before the Board. Director Chambers replied that the compliance orders are negotiated with investigations, law, and the Reviewing Board Member, who strive to present the optimum balance between the licensee and public safety for success. Chief Investigator Greg Francois added that the agreements are drafted using Board precedence and fact patterns, and multiple negotiations often occur to help ensure that an agreement is as complete as possible.

 Director Chambers then described how programs generate revenue, how fees are utilized, and the process by which these fees are created. She outlined Board accountability and emphasized how Board decisions can have ripple effects. She highlighted how Board members, with the support of the Division, need to maintain the majority of their focus on licensing concerns rather than industry concerns to best provide service; and described "right touch regulation" and how finding equilibrium between government and market procedures is what the Division, with the partnership of the Board, is constantly striving for. She introduced how Boards are tasked with maintaining licensing standards that are both appropriate and relevant, and presented the Board with available online resources.

 Director Chambers described the Division's crucial concepts of transparency, discretion, and fairness. She reinforced how Board members are government officials on government Boards, and how they exist to help in the conduct of the people's business and that in carrying out this business, it needs to be done so openly. She discussed the Open Meetings Act, and how it factors heavily into what can and cannot be discussed where and when. She then outlined Executive Sessions during a meeting, and when and how they are determined to be appropriate. She emphasized discretion, and how it used to protect those whom we serve and create outcomes based on solid judgement. She stated discretion is used to protect legally confidential information, protect licensees' due process rights, and maintain fairness and integrity of the Division's procedures. Director Chambers described fairness, while subjective, as crucial to maintaining the Division's boundaries of statutes and regulations and preventing

conflicts of interest. She listed the regulations procedure as an example of fairness, as it gives people the opportunity to have a voice in the government process and provides Board members with equal information. She emphasized the Board's responsibility in declaring potential conflicts of interest and preventing ex-parte communication as two major ways to maintain fairness in proceedings.

Director Chambers ended the board training by offering the Division's support in the Board's endeavors and thanking them for their service.

#### Agenda Item 5 – Investigations

Chair Stetson requested a 5-minute break for the Board to review the case Investigator Prieksat provided for Board consideration.

Break at 3:15 p.m.

Reconvene at 3:20 p.m.

Chair Stetson asked if there was any need for discussion of the case presented, which would warrant a motion for Executive Session. Mr. McKean asked if he should read just the Investigative Memo, or the legal documents that were included as well just to make sure that they match. Chair Stetson explained the Investigative Memo recaps the legal documents. She said the Board would be putting the "final stamp" on the Consent Agreement. All Board members agreed there were no questions or need for further discussion.

On a motion made by Ms. Hayes, seconded by Mr. McKean, it was

RESOLVED to approve the Consent Agreement for case #2019-001402.

Roll call vote: Ms. Hayes – yes, Mr. Kudryn – yes, Mr. McKean – yes, and Ms. Stetson – yes.

Motion passed.

The Board accepted the Consent Agreement for case #2020-001402.

### Agenda Item 9 - Board Business

Pending Applications

Chair Stetson asked if the Board members had a chance to review the applications ahead of time.

Mr. Kudryn asked for clarification on "adjustments used" on one of the applications. Chair Stetson moved to table the application, stating that it shouldn't have made it this far without a Board member verifying the logs. Mr. Kudryn stated he asked for clarification from the Division in May but had not received a response. Ms. Walsh asked Mr. Kudryn to forward the email chain to her, and she would see that his question gets addressed. Chair Stetson entertained a motion to have the application in question be tabled and moved to OnBoard once the work log verification is complete. Ms. Hayes asked to do the same with all 6 applications, as she didn't have time to review the documents and applications before the meeting.

On a motion made by Ms. Hayes, seconded by Mr. Kudryn, it was

 RESOLVED to place all of the presented applications into OnBoard for voting, rather than at today's meeting, so the Board would have more time to review them.

### The motion passed unanimously.

Ms. Walsh added that with applications being uploaded to OnBoard, that the turnaround time would be tight, and asked Board members to get their reviews in quickly so the Division can disseminate the information and decisions to the respective applicants.

#### Annual Report - Adopt FY22 Goals & Objectives

Chair Stetson asked for clarification of the Board's responsibilities for the Annual Report. Ms. Walsh explained that the Board would come up with travel requests, potential legislative issues the Board wants to address, how the Board's goals and objectives have been met for the past year, and how they hope to meet them for the upcoming year. Chair Stetson described travel restrictions for the past year due to COVID-19 and asked if anyone had potential requests. Ms. Hayes stated that there was a class on how to review appraisal assignments and reports as a Board member and asked how the Board should prioritize its educational travel. Chair Stetson offered to assign tasks to Board members to assist putting together the report. She asked Ms. Hayes to look up travel restrictions and education opportunities. Ms. Hayes added that she'll see if the courses were offered online as well, to provide the entire Board with the information. Ms. Walsh suggested that the Board could discuss having in-person meetings, or at least put a placeholder in the report in case the meetings became available. She added that doing this would help allocate some of the costs that the Division would review, Ms. Walsh stated that the draft of the report can be uploaded into OnBoard, reviewed by the Board, and voted on to minimize the processing time. Chair Stetson stated she would have her draft of the report to Division staff, so the Board is in compliance with the Division deadline.

### **Board Topics/Questions**

Mr. Kudryn asked a question regarding the verbiage in one of the regulations. Ms. Hayes replied that was the project she was working on presenting to the Commission regarding acceptance of online continuing education courses. Chair Stetson confirmed, stating that the regulations were added to the Board packet to see if their language could be clarified and improved. She added that the Board can add improving said language in the regulations to their goals and objectives for the upcoming Annual Report. Ms. Hayes indicated she would send her updates and corrections to Ms. Consalo, who would send the information to the Board members for review and additional input. Mr. Kudryn asked where the Division stood regarding being fully staffed. Ms. Walsh said there were still multiple vacancies within the Division, and it would take several months to fill these. She added that Division staff would make themselves available to assist the Board, if requested.

#### Schedule Next Meeting

Chair Stetson suggested the next Board meeting date occur in September or early October. The Board members agreed on Tuesday, October 5, 2021, at 10 a.m.

### Adjourn

On a motion duly made by Ms. Hayes, seconded by Mr. Kudryn, it was

RESOLVED to adjourn.

460 461 462	The motion passed unanimously.	
463 464	Meeting adjourned at 4:22 p.m.	
465		
466	Respectfully Submitted,	
467		
468		
469		
470	Terry Ryals, Records & Licensing Supervisor	Date
471		
472		10/101
473		10/11/81
474	Ashlee Stetson, Chair	Date