

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4

5 REAL ESTATE COMMISSION
6 MEETING MINUTES
7

8 August 14, 2018
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS
11 44.62, Article 6, a scheduled teleconference meeting of the Real Estate
12 Commission was held August 14, 2018, at the State of Alaska Atwood Building,
13 550 W. 7th Avenue, Suite 1550, Anchorage, Alaska.
14

15 **Tuesday, August 14, 2018**

16 **Agenda Item 1 - Call to Order**

17 Chairperson Traci J. Barickman, called the meeting to order at 12:00 p.m. at which
18 time a quorum was established.
19

20 Roll Call – 1(a)

21 Members present:

22 Guy Mickel, Broker, 1st Judicial District,
23 Marianne Burke, Public Member
24 Eric Bushnell, Broker at Large, Chair
25 David Pruhs, Broker, 4th Judicial District
26 Traci J. Barickman, Broker, 3rd Judicial District
27 Peggy Ann McConnochie, Broker, Broker at Large
28 Cindy Cartledge, Public Member
29

30 Staff Present:

31 Sharon Walsh, Executive Administrator
32 Nancy Harris, Project Assistant
33

34 Guests Present:

35 Rob Schmidt, Assistant Attorney General, Dept. of Law, Anchorage
36 Anita Bates, Associate Broker, Dwell Realty, Anchorage
37 Lonnie Logan, Associate Broker, Herrington & Co., Anchorage
38

39 Ms. Barickman asked members if they had any conflicts of interest to disclose at
40 this time.
41

42 Ms. McConnochie stated she had been contacted 22 plus years-ago by Mr.
43 Crawford regarding a merger of companies.
44

45 Mr. Schmidt suggested that they wait until executive session to discuss.
46

47 Ms. Barickman and Ms. McConnochie stated that they are real estate education
48 providers.

49

50 **Approval of Agenda- 1(b)**

51 Commission members reviewed the meeting agenda.

52

53 **On a motion duly made by, Ms. Cartledge, seconded by Mr. Bushnell, it**
54 **was,**

55

56 **RESOLVED to approve the meeting agenda for August 14, 2018**
57 **as presented.**

58

59 Mr. Pruhs joined the meeting at this point and had no conflicts of interest to
60 disclose.

61

62 **Roll call vote was taken:**

63 **Ms. Burke, Ms. McConnochie, Ms. Cartledge, Mr. Bushnell, Mr. Pruhs, and**
64 **Mr. Mickel voted to approve the agenda.**

65

66 **All in favor; Motion passed.**

67

68

69 **Agenda Item 2 – Old Business**

70 **Clarifying the Use of Designated Continuing Education (DCE) Credits 2(a)**

71 Ms. Barickman indicated that staff has looked at prior meeting minutes back to
72 2004 and found no action taken by the REC to allow DCE credits to be used for
73 Elective Continuing Education(ECE) credits. She suggested that this issue be put
74 to rest. The Commission members discussed matter.

75

76

77 **On a motion duly made by Mr. Bushnell, seconded by Mr. Pruhs, it**
78 **was,**

79

80 **RESOLVED to allow a licensee who takes a class that is**
81 **considered a DCE course and has taken a second class with a**
82 **different instructor and different course material, that it be**
83 **considered an ECE credit and an ECE class.**

84

85 Discussion by Mr. Pruhs is that this will be an added burden placed on REC staff to
86 look through course material.

87

88 Mr. Mickel said he agreed that even with different teaching styles that to take a
89 course twice is redundant.

90

91 Ms. Cartledge asked if there is anything in statute or regulation that speaks to this
92 issue?

93
94 Ms. Walsh asked the members to reference 12 AAC 64.500(h).

95
96 Mr. Bushnell stated that the REC dealt with this three years ago by setting up DCE
97 guidelines designed to allow more diversity in course work.

98
99 Ms. Walsh read citation 12 AAC 64.500(h)- An applicant for renewal may not
100 accrue continuing education contact hours for taking the same, or substantively
101 identical, course more than once during a licensing period.

102
103 Ms. Burke indicated that she remembers the discussion and that every instructor
104 brings their own point of view. Ms. Burke asked for clarification on the motion.

105
106 Ms. Barickman asked Ms. Harris to re-read motion.

107
108 Ms. Cartledge said that she wanted to make sure that people understand that the
109 term here is, ... “substantively identical” not “substantially identical”, there is a
110 difference.

111
112 Ms. Barickman said yes, it is not substantially but that it is “substantively”.
113 Substantively means primarily or fundamentally the same.

114
115 **Roll call vote was taken:**

116 **Mr. Pruhs, Ms. McConnochie, Ms. Cartledge and Mr. Mickel voted - no.**
117 **Ms. Burke and Mr. Bushnell voted - yes.**

118
119 **Motion failed.**

120
121
122 Guidelines for Designated Continuing Education (DCE)- 2(b)

123
124
125 **On a motion duly made by Ms. McConnochie, seconded by Mr. Mickel,**
126 **it was,**

127
128 **RESOLVED to accept the DCE Guidelines as proposed by Ms.**
129 **McConnochie.**

130
131 There was no further discussion.

132
133 **Roll call vote was taken on the above motion:**
134 **Ms. Burke voted –no.**

135 **Mr. Mickel, Mr. Pruhs, Ms. McConnochie, Ms. Cartledge and Mr. Bushnell**
136 **voted –yes.**

137
138 **Motion passed.**

139
140
141 Chair Barickman asked Assistant Attorney General Rob Schmidt if they needed to
142 go into executive session to discuss the two recovery fund claims.

143
144 AAG Schmidt recommended that the Commission go into executive session.

145
146
147 **On a motion duly made by Mr. Bushnell, seconded by Mr. Mickel, it**
148 **was,**
149 **RESOLVED to go into executive session in consultation with the**
150 **Assistant Attorney General, Rob Schmidt.**

151
152
153 Roll call vote was taken on the above motion:
154 Ms. Burke, Mr. Mickel, Mr. Pruhs, Ms. McConnochie, Ms. Cartledge and Mr.
155 Bushnell voted –yes.

156
157 **Motion passed.**

158
159 Into executive session at 12:28 p.m.

160
161 **On a motion duly made by Mr. Pruhs, seconded by Mr. Mickel, it was,**
162 **RESOLVED to come out of executive session.**

163
164
165 Roll call vote was taken on the above motion:
166 Ms. Burke, Mr. Mickel, Mr. Pruhs, Ms. McConnochie, Ms. Cartledge and Mr.
167 Bushnell voted –yes

168
169 **Motion passed.**

170
171
172 Out of executive session at 1:01 p.m.

173
174
175 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it**
176 **was,**

177

178 **RESOLVED that the request from Mr. Bradford R. Breen with**
179 **regards to the amount of \$40,861.05 be given to him pursuant to**
180 **his request from the Recovery Fund.**

181
182
183 Ms. Burke offered a friendly amendment to the motion; seconded by Ms.
184 Cartledge, to pay the interest to the date as stipulated in statute and regulation.

185
186 Ms. Barickman stated that the Recovery Fund will only pay up to \$15,000.00 per
187 transaction. It exceeds the amount allowed in statute.

188
189 AAG Schmidt read AS 08.88.465 to the Commission members.
190 **Sec. 08.88.465. Consideration of application.** (a) If the commission receives a claim for an award
191 from the recovery fund that complies with the requirements of AS 08.88.450 - 08.88.495, the
192 commission shall make an award from the recovery fund in an amount not to exceed \$15,000. Not
193 more than \$15,000 may be paid for each transaction, regardless of the number of persons injured or
194 the number of parcels of real estate involved in the transaction.

195
196 Ms. Burke asked if it was per transaction or per claim?

197
198 AAG Schmidt responded that the maximum liability may not exceed \$50,000 for
199 any one licensee and read AS 08.88.475.

200
201 **Sec. 08.88.475. Maximum liability.**
202 (a) The maximum liability of the real estate recovery fund may not exceed \$50,000
203 for any one real estate licensee.
204 (b) If the \$50,000 liability of the fund as provided in (a) of this section is insufficient
205 to pay in full the valid claims of all persons who have obtained a final judgment,
206 final arbitration award, or settlement agreement involving an individual licensee
207 and have filed claims for an award from the recovery fund, the \$50,000 shall be
208 distributed among the claimants in the ratio that their individual claims bear to the
209 aggregate of valid claims, or in another manner that the commission considers
210 equitable. Distribution shall be among the persons entitled to share in the recovery
211 without regard to the order in which their claims were filed.

212
213 Ms. Burke withdrew her friendly amendment.

214
215 Ms. Cartledge withdrew the motion.

216
217
218 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it**
219 **was,**

220
221 **RESOLVED that the matter of Mr. Bradford R. Breen with**
222 **regards to the Recovery Fund claim for payment, be awarded in**
223 **the amount of \$15,000.**

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Ms. Cartledge stated that you are limited to \$15,000 per transaction in statute so is this compliant based on multiple or one transaction under the statute.

Commission members discussed whether one transaction is a claim. Licensee is accused of many things involving property management.

Ms. Burke called for the motion.

Ms. Cartledge stated that the end result is that the REC has authority or discretion to determine if one or multiple transactions. It's an award for \$15,000 let's take a vote on this.

Roll call vote was taken on the above motion:

Ms. Burke, voted no.

Mr. Mickel, Mr. Pruhs, Ms. Cartledge and Mr. Bushnell voted –yes.

Ms. McConnochie abstained from the vote.

Motion passed

On a motion duly made by Ms. Cartledge, seconded by Mr. Mickel, it was,

RESOLVED that the request from Kelsey Chatski with regards to the Recovery Fund claim for payment, be awarded in the amount of \$9,354.12.

Mr. Bushnell asked if it automatically assumed it is plus interest from the date?

Ms. Burke stated that the regulation states it includes interest and she thinks we should use it.

Mr. Bushnell indicated that the motion does not state that interest will be paid and that the claim was for a cap of \$15,000 so no interest would be paid. This claim is under the threshold which would mean the amount could potentially be more with accrued interest.

Ms. Barickman said that the motion was to be awarded for the total judgement in the amount of \$9,354.12 which would include the interest and cost.

Ms. Cartledge stated that her intent was to include interest.

269 AAG Schmidt stated that if he understood the motion it was to pay the total
270 judgement and the common understanding of the total judgement would include
271 post judgement interest which this judgement would bear interest at the rate of 5%
272 from the date it was entered on March 12, 2018, which would probably be less
273 than \$100 which would include post judgement interest.

274
275 Ms. Cartledge asked if adding post judgment interest is in regulation.

276
277 Ms. Walsh provided regulation citation 12 AAC 64.325(d) which authorizes paying
278 interest from the date of loss to the date of payment.

279
280 12 AAC 64.325. FINDINGS AND CONCLUSIONS.
281 (d) If interest is ordered to be paid on a claim of less than \$15,000, the interest will
282 be calculated from the date of loss until the date of payment of the claim. Total
283 payment from the fund may not exceed \$15,000 per transaction, whether principal
284 or a combination of principal and interest.

285
286
287 **Ms. Burke offered a friendly amendment, no second, that it include the**
288 **payment of interest calculated in accordance with the regulation 12 AAC**
289 **64.325(d).**

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291
292 Roll call vote was taken on the above motion:
293 Ms. Burke, Mr. Mickel, Mr. Pruhs, Ms. Cartledge and Mr. Bushnell voted –yes.
294 Ms. McConnochie abstained from the vote.

295
296 **Amendment to Motion passed.**

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299 Mr. Bushnell reminded members that the vote was for the amendment, now we
300 need to vote on the main motion.

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302 Roll call vote was taken on the main motion.
303 Ms. Burke, Mr. Mickel, Mr. Pruhs, Ms. Cartledge and Mr. Bushnell voted –yes.
304 Ms. McConnochie abstained from the vote.

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307 **Motion passed.**

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310 **On a motion duly made by Mr. Mickel, seconded by Ms. McConnochie,**
311 **it was,**

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313 **RESOLVED that the teleconference meeting be adjourned.**

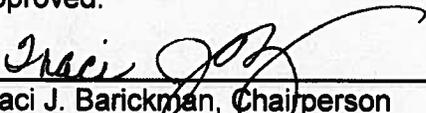
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315
316 Roll call vote was taken on the above motion.
317 Ms. Burke, Mr. Mickel, Mr. Pruhs, Ms. Cartledge, Mr. Bushnell and Ms.
318 McConnochie voted –yes.
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320 **Meeting adjourned at 1:40 p.m.**

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Prepared and submitted by:
Real Estate Commission Staff

Approved:



Traci J. Barickman, Chairperson
Alaska Real Estate Commission

Date: 3/13/19