

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

**REAL ESTATE COMMISSION
MEETING MINUTES**

December 15, 2021

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 15, 2021, at the State of Alaska Atwood Building, 550 W. 7th Avenue, Suite 1550, via Zoom, Anchorage, Alaska.

December 15, 2021

Agenda Item 1 - Call to Order

Chairperson Cheryl Markwood called the meeting to order at 9:00 a.m., at which time a quorum was established.

Roll Call – 1(a)

Members Present via Zoom

Cheryl Markwood, Broker, Broker at Large, Chairperson
Elizabeth Schok, Associate Broker, 4th Judicial District
Traci Heaton, Associate Broker, 1st Judicial District
Chad Stigen, Associate Broker, Broker at Large
Devon Thomas, Broker, 3rd Judicial District
Jaime Matthews, Public Member, Vice Chairperson
Jesse Sumner, Public Member

Staff Present:

Nancy Harris, Executive Administrator
Sara Sather, Occupational Examiner for the Board of Real Estate Appraisers

Staff Present via Zoom:

Melissa Dumas, Administrative Operations Manager, CBPL
Erika Priksat, Senior Investigator, CBPL
Anna Gabriel, REC Investigator, CBPL

Guests Present via Zoom:

Daniel Moskowitz, Compliance Administrator for The CE Shop
Jerry Royse, Broker/Educator, Royse & Associates, Anchorage
Errol Champion, Liaison for AAR, and Broker of Coldwell Banker Race Realty, Juneau
Tim, not identified

Ms. Harris introduced Sara Sather, Licensing Examiner working with the Board of Real Estate Appraiser, who is attending the REC meeting for training.

Welcome New Commission member Devon Thomas - 1(b)

Ms. Markwood introduced new Commission member Devon Thomas. Ms. Thomas said she is the owner/broker of Signature Real Estate in Wasilla. She has been licensed since 2003 and she said this is something she always wanted to and is excited to be on the Commission.

Approval of 12/15 Agenda – 1(c)

Commission Members reviewed the meeting agenda.

Ms. Markwood asked to amend the agenda by adding two items to the Agenda under item #4, Investigative Reports. Add a (b) Investigation Process, and (c) Investigative Matters.

On a motion duly made by Ms. Schok, seconded by Mr. Sumner, it was:

RESOLVED to approve the meeting agenda for December 15, 2021 as amended.

All in favor; Motion passed.

Statements of Conflicts of Interest – 1(d)

There were no conflicts of interest statements.

Agenda Item 2 – Public Comments

Ms. Markwood stated that the Commission would not be taking public comments on anything regarding the AREC Property Transfer Disclosure Statement form because the regulation project has already gone through the public comment period and that would jeopardize the project. She said all other public comment were welcome.

There were no public comments.

Agenda Item 3 - Meeting Minutes

October 28, 2021 Meeting Minutes – 3(a)

On a motion duly made by Ms. Matthews, seconded by Ms. Schok, it was:

RESOLVED to approve the October 28, 2021 meeting minutes.

All in favor; Motion passed.

The Commission recessed for break at 9:16 a.m.

The Commission reconvened at 9:36 a.m.

Agenda Item 4 – Investigative Report

Statistical Report – 4(a)

Senior Investigator, Erika Prieksat, introduced the new real estate investigator Anna Gabriel to the Commission. Ms. Prieksat stated that she is here to introduce Ms. Gabriel and show her how things go at a real estate commission meeting. Ms. Prieksat presented the investigation statistics for the reporting period of September 2, 2021 through December 1, 2021. There are 44 open matters and 16 cases were closed from the last report.

Investigative Process and Investigative Matters – 4(b) and (c)

Ms. Markwood stated that the Commission will be working on investigative process training and investigative matters that require they go into executive session.

On a motion duly made by Ms. Schok, seconded by Mr. Sumner, it was:

RESOLVED to go into Executive Session per AS 44.62.310(c), for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; or matters which by law, municipal charter, or ordinance are required to be confidential; matters involving consideration of government records that by law are not subject to public disclosure. Board staff is requested to remain during the session.

All in favor; Motion passed.

The Commission entered executive session at 9:36 a.m.

The Commission went back on record at 12:15 p.m.

Agenda Item 5 – Division Update

Fee Changes- regulation project – 5(b)

Melissa Dumas, Administrative Operations Manager for the Division of Corporations, Business, and Professional Licensing, presented to the Commission a revamped fee analysis and spoke about the needed fee changes.

Ms. Dumas stated that before the REC renewal she had talked to the Commission about a need for some fee changes but because of the proximity to the renewal they were not able to do that. She said she has revamped the fee analysis, so it will look a bit different then when the Commission last look at it. She did say the Commission would need to move forward with some fee changes.

Ms. Dumas reviewed the Fee Analysis worksheet with the Commission. The REC has two collectors, the Real Estate Commission fee and the Recovery Fund fee, indicated in tabs 2 and 3. She said if the REC does not reduce the fees, the REC fee will have a surplus of \$713,916 in FY2025/2026. She said the statute requires we maintain expenditures and revenue as equal but that is nearly impossible with the biannual renewal structure. The division goal is to typically have 1 year of surplus or for the REC \$400,000 surplus. Ms. Dumas said if the REC reduces the REC fees a little bit so that we don't have such a large surplus.

She said in the blue section, the Proposed by Division section, indicates the reduction in fees for \$30.00 for several application types and the projected revenue shows \$64,914, which is a little bit of a cushion.

She said the Commission can play with the numbers in the Proposed by the Board section to determine what they would like to recommend. She said to make a meaningful change you would need to make changes with the most impact, where you would see the most fees paid. Ms. Dumas stated to try and keep the surplus between \$400,000 and \$500,000.

Ms. Markwood asked Ms. Dumas when the Commission would need to make this fee adjustment determination, at this meeting or by the next meeting?

Ms. Dumas said that the REC could wait until the next meeting since the bulk of the revenue collection happens at renewal it will impact your future licensees with the fee changes.

Ms. Dumas went over the Recovery Fund fee on the fee analysis spreadsheet with the Commission. She said it is the same concept as the REC fees. The statute requires the Recovery Fund balance to be between \$250,000 and \$500,000. She said with no fee change the projected balance in FY2023/2024 and FY2025/2026 will fall below that requirement. She recommends a fee increase to keep the balance within the statute requirement. The division recommended a \$15 increase. Again, the Commission members can manipulate the fees to determine what they would want to recommend to the division. A small increase to the recovery fund fee, while also factoring in a decrease to some REC fees, will essentially offset the recovery fund fee increase. It is more than likely there won't be any push back from licensees if that's how the Commission decides to move forward.

Financials – 5(a)

Ms. Dumas presented the Revenue and Expenditures report for the FY2022 1st quarter, July through September 30, 2021. She stated that one thing that was added to this report was the closed biennium's. It is nice to compare the biennia to one another or compare renewal and non-renewal years. She stated the current revenue was \$54,175. Expenditures totals were as follows: There were non-investigative expenditures of \$28,156 and investigative expenditures of \$16,362, for a total of \$44,518 in direct expenditures. There were indirect expenditures of \$42,565, place holder, (this includes internal administration, department, and statewide costs), leaving the total expenditures at \$87,083. There was a total ending cumulative surplus of \$907,731. She said this is a reason to decrease fees a little bit to maintain the statute requirement at trying to keep revenue and expenditures equal.

Ms. Dumas said that the license count was new feature added to these reports so we can see if the licenses are increasing or decreasing. She said there is a decrease in the number of licensees and that is why she recommended to decrease those initial fees to maybe encourage individuals to apply for a real estate license, if that is needed.

Ms. Markwood asked Ms. Dumas where would the Commission find, on this report, the legal fees if the Commission had to send something to Department of Law for a question?

Ms. Dumas said that was a good question. She said that the Department of Law (DOL) was behind on billing us and they just paid that bill so those expenditures will show up on the 2nd Quarter report. Questions to DOL will be located either under Services or under the line item, investigative, depending if the question was related to an investigation.

Ms. Markwood asked if that would include Mr. Marquis' time as the regulation specialist? Ms. Dumas said that Mr. Marquis' time would show under Personal Services.

Agenda Item 6 – Old Business

AREC Property Transfer Disclosure Form Regulations Project- Review Public comments –6(a)

Commission members reviewed and made changes to the State of Alaska Property Disclosure Transfer Statement form with the public comments in mind. The changes made were:

Page 1-

Not changes can be made to the language in the box regarding AS 34.70.020 or AS 34.70.040(b). This is a statute and can only be changed through legislation.

Page 2-

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Under Property Features, the first sentence in that box, delete the text, "are built in and will remain with the property. Also, circle those checked items that". The sentence should read: Check all items that have known defects or malfunctions."

Add more space for seller's and buyer's initials at the bottom of pages 2, 4, 5 and 6.

Page 3-

Under Structural Components, add two boxes with the text "Others" in the open box.

Under Documentation, delete the box in front of Inspection Report(s) and bring the text "Inspections Report(s) up after "Home" just above it to read: "Engineer/Property/Home Inspections Report(s).

Under Documentation, add with a checkbox in front:

Flood Evaluation Certificate

Shared Well Agreement

Shared Septic Agreement

Alphabetized the entire Documentation section/box.

Page 4-

Delete the "NA or" option at the right of the document, through the entire document. It should only read: Yes, No, UNK.

Delete question #1, Title and renumber questions.

Under Heating Systems, add with a check box in front of each word:

Boiler System

Monitor/Toyo

Heat Pump

Geo Thermal

Alphabetized the entire Heating System section/box.

Page 5-

Under Sewer System, question #3, the sentence should read: Have you had any work, maintenance or inspections done on the sewer system during your ownership?

Under Water Supply, in the Type box, delete the word "Cistern" so it will read: "Water Tank".

Under Water Supply, in the Type box, for Shared Well, place the text "Provide Agreement, if any" in parenthesis. To read: Shared Well (provide agreement, if any)

Under Water Supply type, add 2 new boxes/rows, box/row should read: Location of operational well _____, Second, box/row should read: Are there any abandoned wells on the property? _____.

Delete the word "Hot" in the heading "Hot Water Heater" to read: Water Heater.

Under Water Heater type, add, a check box in front of the text "Oil and place in front of the check box and text "gas". It should read, with check boxes in front of each word: Oil, Gas, Electric, Other.

Page 6-

Under Inspection, move sentences 2-4, (2-Are you aware of any deed, or other private restrictions on the use of the property?, 3-Are you aware of any variances being applied for, or granted, on this property?, 4-Are you aware of any easements on the property?.) under Setbacks and Restrictions on page 4 and renumber to 6, 7, and 8.

Add a new question #2 to read: Has there been any energy rating on the property?

Page 7-

Under Flood Zone Designation, move questions #3 and 4 (3-Have you ever filed an insurance claim for any environmental damage to the property?, 4- Are you aware of a waste disposal site or a gravel pit within a one-mile radius of the property?) and place under Environmental Concerns.

Under Environmental Concerns, move question #5 (Are you aware if the property as flooded?) and place under Flood Zone Designation.

Add new question under Flood Zone Designation as question #1, Is this property in a flood zone?

Renumber questions in Environmental Concerns box and Flood Zone Designation box.

Under Constructions, Improvements/Remodel, bump question #2 to #3 and the new question #2 is: Are there any open building permits for the property?

Page 8-

Under Other, add as question #3, Are you aware of any smoking of any kind inside the property during your ownership?

On a motion duly made by Ms. Schok, seconded by Ms. Thomas, it was:

RESOLVED to approve the changes to the SOA Property Disclosure Transfer Statement form as discussed.

All in favor; Motion passed.

On a motion duly made by Ms. Schok, seconded by Ms. Thomas, it was

RESOLVED that the motion for adoption of the proposed regulation in considering public comments received from the initial public notice and the supplemental notice and no additional cost to private persons, I move to adopt the proposed regulation changes to 12 AAC 64. 930, dealing with the State of Alaska Residential Real Property Transfer Disclosure Statement form as amended to reflect the date of December 15, 2021 including the changes to the State of Alaska Residential Real Property Transfer Disclosure Statement form that the Commission adopts by reference to be dated revised December 2021.

Roll call vote:

Ms. Heaton-yes, Ms. Schok-yes, Mr. Stigen-yes, Ms. Matthews-yes, Mr. Sumner-yes, Ms. Markwood- yes, and Ms. Thomas- yes.

All in favor; Motion passed.

2021 Strategic Plan Review – 6(b)

Ms. Markwood provided an update on the progress that has been made on the Commission's Strategic Plan items. The Property Management Committee continues to gather information at the next couple meetings for FAQs, the regulation clean-up, the review and revamping of the SOA Residential Real Property Transfer Disclosure Statement, and the DCE Education Topics have been completed. The fee analysis will be considered at the March meeting, and creation of the proposed regulations for a Temporary Military Courtesy License will be discussed at this meeting under new business.

Agenda Item 7 – New Business

Teams Disclosure Committee – 7(a)

Ms. Schok updated the Commission on the Teams Disclosure Committee. She said the first meeting was December 9, 2021 and was mostly introductions and what the committee was charged to do. The next committee meeting is February 8, 2022. She said hopefully she will have more information to report at the next meeting.

Military Courtesy License Regulation – 7(b)

Ms. Heaton said that they, herself and Mr. Stigen, had misinformation regarding this regulation as to what they could and could not put forward. Their recommendation would be to issue a temporary military license to real estate licensees or associate broker licensees with substantially equivalent education and they added to that recommendation, to remain under the direct supervision of a broker. They would like to have substantially equivalent education be defined if they could.

On a motion duly made by Ms. Heaton, seconded by Mr. Stigen, it was:

RESOLVED to approve the temporary military license for spouses of active military personnel and the temporary military license for active military personnel with the addition of having the temporary licensee be supervised by a broker during this period.

All in favor; Motion passed.

The Commission recessed for break at 1:45 p.m.

The Commission reconvened at 2:04 p.m.

Temporary Permits – office closure – 7(c)

Ms. Harris stated that 2 brokers passed away and their spouses needed assistance to close those offices. She brought this to the Commission for their consideration to issue a temporary license permit for Heather Maidl and Margaret Nelson to assist the spouses close their husband's offices.

On a motion duly made by Ms. Schok, seconded by Ms. Heaton, it was:

RESOLVED to approve the temporary permit for Heather Maidl to help the estate of Finis Shelden with the closure of his office.

All in favor; Motion passed.

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379 **On a motion duly made by Ms. Thomas, seconded by Ms. Matthews, it was:**

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381 **RESOLVED to approve Margaret Nelson as Broker to assist the**
382 **spouse of James Riley to close his office, J Riley Real Estate.**

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

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387 Delegation of Authority/OnBoard – yes questions – 7(d)

388 Ms. Harris stated that in the past the Commission delegated authority to the Executive
389 Administrator to approve applications with a “yes” answer for minor violations or old
390 convictions. She said she spoke with Ms. Walsh, the Deputy Director, and she said this
391 delegation is usually done every 2 years.

392
393 Ms. Harris said she did not want to assume that she had that delegation from the
394 Commission as the new executive administrator. Ms. Harris stated she could either bring
395 all applications with “yes” answers to the Commission for approval or they could review
396 and approve applications with “yes” answers through OnBoard.

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399 **On a motion duly made by Mr. Sumner, seconded by Ms. Thomas, it was:**

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401 **RESOLVED to authorize the Executive Administrator to address the**
402 **“yes” questions on applications that do not involve crimes of**
403 **dishonesty as she sees fit for a 2-year period.**

404
405 **All in favor; Motion passed.**

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408 License Request for CE Credit – 7(e)

409 Ms. Harris spoke to the Commission about the form Licensee Request of CE Credit, form#
410 08-4533. This form is for approval of courses that have not been approved through the
411 Commission staff. Ms. Harris could not remember the intent of the form but thought it was
412 for those who completed courses for a professional designation. She said she has
413 received a number of these forms from licensees requesting CE approval of courses they
414 completed in another jurisdiction.

415
416 Ms. Harris brought this issue to the Commission to ask if the Commission would allow CE
417 credit for courses taken in another jurisdiction and if so, what would that look like? She
418 said it is usually not an issue but has seen more of these forms being submitted in the past
419 two renewals.

420
421 Ms. Markwood asked if a Commission member would volunteer to review the regulation
422 and form and see if there needs to be any changes.

423
424
425 Ms. Thomas and Ms. Schok agreed to look at the regulation, 12 AAC 64. 500(n), and see
426 there needs to be any changes. Ms. Thomas also agreed to look at any of these requests
427 should Ms. Harris need some guidance.

428
429 Ms. Markwood asked Ms. Harris to add this item to the strategic plan as well the DCE
430 guidelines.

Agenda Item 8 – Executive Administrator’s Report

Licensing Statistics – 8(b)

Ms. Harris presented the licensing report for December 15, 2021. She reported that between September 1 and November 30, 2021, there were 39 new licenses issued; 2,964 active licensees with a 1/31/2022 expiration date; 3185 total number of licensees with an 1/31/2022 expiration date; 72 inactive licensees; 473 lapsed licenses with 37 of those for non-compliance of PLE; 213 transfers; 115 licensees who completed their PLE requirements; 6 license upgrades from salesperson to associate broker; 111 licensees in a license returned status and since renew has been open in the beginning for December 343 individuals have renewed their license.

Education Statistics – 8(a)

Ms. Harris presented the education report for December 15, 2021. She reported that as of December 6, 2021, there were 11 pre-licensing courses; 3 broker upgrade courses; 370 elective courses; 68 designated courses; and 66 post-licensing courses approved, with a total of 519 courses approved. Ms. Harris stated there are currently 79 approved instructors with 4 new instructors within the last quarter.

Recovery Fund Balance Report – 8(d)

Ms. Harris presented the Recovery Fund Report for the 1st quarter, ending September 30, 2021. The Commission received a total of \$10,810 for license fees processed between July and September leaving the current total fund balance at \$257,747 and the end of year fund balance of 236,438. The projected balance for the end of the next fiscal year is \$317,018.

Application Matter – 8(e)

License application for Anthony Cernadas, license #183719

On a motion duly made by Mr. Sumner, seconded by Mr. Stigen, it was:

RESOLVED to move to approve the license application for Anthony Cernadas license #18379.

Roll call vote: Ms. Heaton – yes, Ms. Schok – yes, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

All in favor. Motion passed.

License application for Ronald Williams

On a motion duly made by Mr. Sumner, seconded by Ms. Matthews, it was:

RESOLVED to approve the license application for Ronald Williams.

Roll call vote: Ms. Heaton – yes, Ms. Schok – no, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

6 in favor, 1 opposed. Motion passed.

License application for Arika Bates

On a motion duly made by Mr. Sumner, seconded by Ms. Matthews, it was:

RESOLVED to approve the license application for Arika Bates.

Roll call vote: Ms. Heaton – yes, Ms. Schok – yes, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

All in favor. Motion passed.

License application for Whitney Olmsted-Denison

On a motion duly made by Mr. Sumner, seconded by Mr. Stigen, it was

RESOLVED to approve the license application for Whitney Olmsted-Denison.

Roll call vote: Ms. Heaton – yes, Ms. Schok – yes, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

All in favor. Motion passed.

License application for Beth Allen

On a motion duly made by Mr. Sumner, seconded by Ms. Thomas, it was

RESOLVED to approve the license application for Beth Allen.

Roll call vote: Ms. Heaton – yes, Ms. Schok – yes, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

All in favor. Motion passed.

License application for David Dowd

On a motion duly made by Mr. Sumner, seconded by Ms. Matthews, it was

RESOLVED to approve the license application for David Dowd.

Roll call vote: Ms. Heaton – no, Ms. Schok – no, Mr. Stigen – no, Ms. Matthews – no, Mr. Sumner – no, and Ms. Markwood – no and Ms. Thomas- no.

All opposed. Motion failed.

On a motion duly made by Ms. Thomas, seconded by Ms. Heaton, it was

RESOLVED to deny the license application for David Dowd with the justification of AS 08.88.171(c).

Roll call vote: Ms. Heaton – yes, Ms. Schok – yes, Mr. Stigen – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. Markwood – yes and Ms. Thomas- yes.

All in favor. Motion passed.

Agenda Item 9 – Meeting Dates for 2022

March 10

June 9

September 8

December 8

Agenda Item 10 – Commission Member Comments & Questions

Ms. Mathews thanked everyone. She also suggested when the Commission members are discussing investigative matters that they do not use names but the case or license number. This may make the conversation easier. Also, she recommended for the next meeting there be a list of suggested motions. She said this may help the meeting run a bit smoother. She thanked everyone at the meeting and wished everyone a Merry Christmas.

Ms. Schok, Mr. Stigen, Ms. Thomas, Ms. Heaton, and Mr. Sumner had no comments and wished everyone a Merry Christmas.

Ms. Markwood thanked everyone and said the Commission accomplished a lot this meeting. She wished everyone a great holiday and Merry Christmas. She said the Commission will keep moving forward and will see everyone at the next meeting in March.

Agenda Item 11 – Adjournment

Meeting adjourned at 2:55 p.m.

The next meeting will be held March 10, 2022 in Anchorage.

Prepared and submitted by:
Real Estate Commission Staff

Approved:

Cheryl Markwood

Cheryl Markwood
REC Chairperson
Alaska Real Estate Commission