

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

**REAL ESTATE COMMISSION  
MEETING MINUTES**

**February 25, 2015**

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 February 25, 2015, at the State of Alaska Atwood Building Conference Room 106, 550 W. 7<sup>th</sup> Avenue, Anchorage, Alaska.

**Wednesday, February 25, 2015**

**Agenda Item 1 - Call to Order**

Chairperson Anita Bates called the meeting to order at 9:03 a.m. at which time a quorum was established.

Roll Call – 1(a)

Members present:

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

Staff Present:

Sharon Walsh, Executive Administrator  
Nancy Harris, Project Assistant  
Jay Paff, Investigator II  
Al Kennedy, Senior Investigator-Supervisor

Guests Present:

Traci Barickman, Broker/Instructor-Owner, AK Real Estate Education  
Shana Ackles, Broker, Keller Williams Realty, AK Group  
Jerry Royse, Broker, Royse & Associates  
Kirk Wickersham, Broker, FSBO  
Christine A. Lumba, Auditor, Division of Legislative Audit  
Terry Fields, UAA Professor  
Karen Gillis, Director, Boards & Commissions, Office of the Governor

Guests Present via Telephone:

Harriet Dinegar, Assistant Attorney General, Dept. of Law  
Neil Slotnick, Administrative Law Judge, Office of Administrative Hearings  
Martha Hewlett, Administrative Officer Corporation, Business and Professional Licensing (CBPL)  
Dave Pruhs, Broker, Pruhs Real Estate Group

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

Commission Members reviewed and discussed the meeting agenda as presented.

Commission Chair, Ms. Bates, asked to make one change. Move item 8(a) to 4(b) on the agenda to consolidate the issue with the Education Report. Ms. Burke asked to have 9(b) added to New Business to discuss administrative procedures.

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

**RESOLVED to approve the meeting agenda for February 25, 2015 as amended.**

**All in favor; Motion passed.**

### **Agenda Item 2 - Meeting Minutes**

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

**RESOLVED to approve the December 3, 2014 meeting minutes.**

**All in favor; Motion passed.**

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

**RESOLVED to approve the December 30, 2014 teleconference meeting minutes.**

**All in favor; Motion passed.**

### **Agenda Item 3 - Public Comment**

Mr. Paff, Investigator, stated that there were some changes in the Investigative unit and introduced his new Supervisor, Al Kennedy.

Terry Fields, a Professor at UAA, addressed the Commission regarding real estate course offerings available at the University of AK, Anchorage. UAA offers a Bachelor of Business Administration in Management with a concentration in real estate and property management. He also indicated that they are in the process of finalizing a pre-licensing course in real estate.

AK real estate cases are addressed in the program by a practicing attorney as well as the Landlord Tenant Act.

Jerry Royse addressed the Commission regarding the need for clarification and advertising by teams.

The Commission also heard from David Pruhs, Broker of Pruhs Real Estate Group. He provided the Commission with a Fairbanks North Star Borough (FNSB) Assembly draft ordinance addressing air quality and the issue of unlisted solid fuel burning appliance

(woodstove) requiring possible compliance by licensees when selling property with this appliance. Mr. Pruhs asked the Commission to have Dept of Law consider 4 questions: 1) Does the FNSB have the power to implement requirements on a real estate sale? 2) Does the FNSB have the power to have people fill out a disclosure on a property that they sell? 3) If a property is sold in violation of this ordinance with an unlisted solid fuel burning appliance (wood stove), does this constitute a possible license violation? 4) If later, it is discovered that a licensee was involved in the sale of property that did not have the owner remove the appliance or fill out and file a disclosure with the FNSB, does the State of Alaska, the Real Estate Commission view this as a license violation and therefore subject to penalties and fines?

Mr. Royse spoke again to the Commission stating the FNSB draft ordinance violates AS 08.88.620.

Christine Lumba, Auditor with the Division of Legislative Audit, introduced herself to the Commission. She said her team will be conducting an audit of the REC, which is scheduled to sunset in 2016.

#### **Agenda Item 4 - Education Report**

##### **Education Statistics – 4(a)**

Ms. Harris presented the education statistics as of February 6, 2015 to the Commission. There are currently 274 courses approved; 8 prelicensing courses; 7 broker upgrade courses; 27 designated courses; 6 post-licensing courses; 61 elective and post-licensing courses; there are no new sponsors for this reporting period. There are 150 permanent instructors; 0 temporary and 30 course sponsors. Instructors are approved for a 5-year period.

Ms. Harris presented information for the Recovery Fund fees collected for education in conjunction with that time period; this is a manual tracking of Recovery Fund fees by REC staff. Ms. Burke asked if we are comparing Division totals to our totals? Ms. Walsh stated yes, they are reviewed as best we can, based on the reports we are provided.

Ms. Bates introduced Ms. Barickman who oversaw the education committee addressing post-licensing education issues. Reallocation of some of those post-licensing hours towards the broker education is a consideration. A mentorship is one option that Ms. Barickman brought forward. Commission members discussed additional ideas.

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

**RESOLVED to have the Education Committee consider the suggestions presented today and come back with recommendations for the Commission to decide at the June 3, 2015 meeting.**

**All in favor; Motion passed.**

#### **Agenda Item 5- Executive Administrator Report**

##### **Recovery Fund Balance Report – 5(a)**

Ms. Walsh presented the Recovery Fund financial reports to the Commission. Ms. Burke asked about the salary expense on 9/30/14 and 12/31/14 it shows \$22,747 and \$32,234

respectively yet there was a full time employee charging 100% and the other 10% why is this figure so low? Ms. Burke asked that staff talk to Mary Manning at Division of Administrative Services.

Ms. Walsh indicated that there are no new Recovery Fund claims filed.

Schedule of Revenue and Expenditure – 5(b)

Ms. Walsh presented the Division's Revenue and Expenditure report for the Real Estate Commission.

Licensing Statistics:

Ms. Walsh presented the licensing statistics for the period ending February 6, 2015. Licensees with an expiration date of 1/31/2016 account for 2570; total active (status of active) licensees during this time period: 2,439. The breakdown is: 16 lapsed licensees as a result of non-compliance of Post licensing education (PLE). 41 licensees are Inactive. 66 licensees had not affiliated with a Broker and were therefore, in an "AWOL" status; in our tracking we had 66 licensees transfer during this reporting period.

Regulation Tracker:

Ms. Walsh indicated that 2 regulations (12 AAC 64.420 and .240) are still waiting for internal processing through the Proposed Regulation Request Form (PRRF) review before the Regulation Specialist can submit them for the 30 day public notice. Commission members asked that Ms. Chambers move this regulation project out for public comment.

**Commission recessed for break at 10:20 a.m.**

**Commission reconvened from break at 10:30 a.m.**

Agenda Item 6 - OAH Decision

**Case # 14-1114-REC**

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

**RESOLVED that they go into executive session.**

**All in favor; Motion passed.**

**Ms. Cartledge stated:**

In accordance with AS 44.62.310(c): I move we go into executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of a person.

The Chair, Ms. Bates asked ALJ Slotnick if he wanted to go into executive session? The Judge stated yes, it would be necessary. Ms. Lumba asked ALJ Slotnick if she could sit in on the executive session. ALJ said that normally she would not be permitted but that the REC can ask their Assistant AG. Ms. Bates indicated that the Assistant AG was not at the meeting. ALJ Slotnick didn't think Ms. Lumba should be in executive session. He stated that the Commission is certainly justified in denying this request. Ms. Lumba did not sit in on the executive session.

**Into executive session at 10:34 a.m.**

**Out of executive session at 10:58 a.m.**

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

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

**All in favor; Motion passed.**

**Agenda Item 7 - Investigator Report**

**Statistical Report – 7(a)**

Mr. Paff presented the investigative statistical report covering information compiled November 19, 2014 through February 10, 2015. There were 16 opened matters and 20 closed matters. There are 29 matters that are under active investigations or pending litigation.

**Probation Report 7(b)**

Mr. Paff discussed the Probation report with the Commission. There are currently 4 licensees on probation and complying with their probation requirements.

Mr. Paff discussed the issue of marijuana legalization and property management issues. Ms. Bates stated that this issue may be addressed by the Industry Issues committee of the Alaska Association of Realtors.

Mr. Paff indicated that Chief Birt is reviewing all Dept. of Law invoices presented to the Investigations unit and identifying the cases by board or commission to further insure proper case and billing information.

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

**RESOLVED that** in accordance with AS 44.62.310(c): I move we go into executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of a person.

**All in favor; Motion passed.**

**Into executive session at 11:22 a.m.**

**Come out of executive session at 11:44 a.m.**

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

**RESOLVED to accept Imposition of Civil Fine #2014-002025.**

**All in favor; Motion passed.**

**In the case of 2014-002025 the Imposition of Civil Fine is adopted for Leo Von Keitz.**

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

**RESOLVED to accept Imposition of Civil Fine #2015-000288.**

**All in favor; Motion passed.**

**In the case of 2015-000288 the Imposition of Civil Fine is adopted for William Dixon.**

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

**RESOLVED to accept Imposition of Civil Fine #2012-000337.**

**All in favor; Motion passed.**

**In the case of 2012-000337 the Imposition of Civil Fine is adopted for Kirk A. Maynard.**

Break for lunch.

Commission convened for lunch at 11:46 a.m.

Commission reconvened at 1:00 p.m.

#### Eligibility 8(b)

Chair Bates reviewed the agenda and it was decided that there is no carry over discussion to be had on the eligibility requirements in agenda item 8(b). It was initially brought up at the December meeting; she recommends that the Commission look at this for future consideration.

#### Advertising a Business Name 8(c)

Mr. Paff was asked about the frequency of calls or complaints regarding advertising by "teams" where no required Broker information is listed in the advertisement. He stated that he has been tracking these issues since January and so far there are 11 instances. He indicated that most of these ads are lacking the Broker information. The Commission also discussed imposing fines as a way to stop problematic advertising by teams. Mr. Paff said a fine would have to go through the process of issuing an imposition of a civil fine.

Mr. Cole recommended sending each Broker and their licensee a letter indicating that they must advertise in the name of the Broker; put the responsibility on the Broker. The other Commission members agreed with sending out letters to both Brokers and licensees. Setting out a targeted date for compliance and warning before fines will be levied. Ms. Harvill expressed her concern for executing a timeline and making sure there is follow through of the process. Ms. Cartledge wants to be sure the REC does have the authority to impose a fine. She suggested we address the issue with the Assistant Attorney General. Ms. Davis suggested a letter going out soon. Ms. Walsh suggested it be done using the List Serv.

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

**RESOLVED to have 60-days to get the information out to licensees regarding consideration of imposing fines for advertising to the public without providing proper Broker information on that advertisement. Staff will also check with the Dept. of Law for implementation and report back at the June meeting for Commission consideration.**

**All in favor; Motion passed.**

The Commission called back ALJ Slotnick for continuation on OAH case #14-1114-REC.

**Agenda Item 6 – OAH case #14-1114 - Continued**

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

**RESOLVED to go into executive session. Ms. Cartledge stated:**  
In accordance with AS 44.62.310(c): I move we go into executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of a person.

**All in favor; Motion passed.**

Into executive session at 2:13 p.m.  
Out of executive session at 3:09 p.m.

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

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

**All in favor; Motion passed.**

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

**RESOLVED to approve case 14-1465-REC**

**All in favor; Motion passed.**

**The motion to deny the license application for Samantha Weber was adopted.**

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

**RESOLVED to approve case 14-0940-REC.**

**All in favor; Motion passed.**

The motion to revoke the license for Susan Sook Cho was adopted.

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

**RESOLVED to approve a modified decision in OAH case 14-1114-REC. In accordance with AS 44.64.060(e)(3), revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty or other disposition of the case as follows:**

- That the real estate license be suspended for 365-days;
- That the licensee shall be on probation to run concurrently with the licensee's federal probation;
- Any conduct that leads to the determination of the licensee's probation will be a sanctioned offense and the Real Estate Commission(REC) can impose additional sanctions as appropriate;
- During this time the licensee is required to report to the REC any changes in probation status in the licensee's Federal case including any accusation that the licensee has failed a drug test;
- That within one-year the licensee is required to complete 18 hours of continuing education. The education required by this order shall be in addition to any education the licensee is enrolled in for completion of educational requirements and cannot be counted toward any license renewal. The curricula of the 18 hours shall be approved by the Commission's agent before the licensee registers for the course and shall include topics as determined by the Commission's agent. The licensee is to bear all costs to the education required by this order. It is recommended that the licensee attend one or two REC quarterly meetings and receive continuing education credit in the amount of one hour and can be used as an offset to the 18 hour education requirement.

**All in favor; Motion passed.**

**In the case OAH 14-1114-REC in the matter of Shane O'Hare the proposed decision is adopted as amended/modified by this commission.**

### **Agenda Item 8 – Old Business**

#### **Consumer Disclosure- 8(b)**

Commission members discuss the revised Consumer disclosure form as drafted by Ms. Cartledge and Ms. Bates. Specific assistance and confidentiality is reviewed and is emphasized that this language is for the consumer, when it states "unless you and the licensee agree otherwise, information you provide the licensee is not confidential". Ms. Bates indicated that they are running about an hour behind schedule and we won't get to the Division update until 4:00p.m. Ms. Cartledge stated that there was a disconnect in the duties owed by a neutral licensee and the duties owed by specific assistance. There isn't

language in statute that speaks to specific assistance but there is language in the statute under neutral licensee that speaks to confidentiality. Her intent was to make people/consumers aware that if you are going into specific assistance, unless you go into a written agreement with the licensee, your information is not confidential. Therefore, the need for added language to the Consumer Disclosure under specific assistance. The new language will read as follows: *The licensee does not represent you. Rather the licensee is simply responding to your request for information and the licensee may represent another party in the transaction while providing you with specific assistance.*  
*Any information given to a licensee providing specific assistance is not confidential.*

Additional changes under Neutral Licensee includes: A neutral licensee is a licensee that provides specific assistance to both consumers in a real estate transaction but does not “represent”- either consumer. A neutral licensee must first secure a Waiver of Right to be Represented (form 08-4212) signed by both “consumers”.

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

**RESOLVED to adopt the Consumer Disclosure form as amended.**

**All in favor; Motion passed.**

The Commission members reviewed the Waiver of Right to be Represented draft form. The change of language is under, “if authorized, by consumers, the neutral licensee may analyze and provide information on the merits of the property or transaction, discuss price terms and conditions that might be offered or accepted, and suggest compromise solutions to assist “them” in reaching an agreement.

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

**RESOLVED to adopt the Waiver of Right form as amended.**

**All in favor; Motion passed.**

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

**RESOLVED to adopt the revised regulations for 12 AAC 64.118 and 12 AAC 64.119 to incorporate change to the new title for the Consumer Disclosure and to be in effect the day it is signed into law. Per AS 44.62.210(a) The Commission has reviewed public comments received and have considered the cost to private persons of the proposed regulatory action being taken.**

**All in favor; Motion passed.**

### **Agenda Item 9 – New Business**

Chair Bates and the Commission reviewed the questions provided from Mr. Pruhs and the FNSB Ordinance being considered. She stated that the REC doesn’t have jurisdiction at this time but that it might be that the State Association of Realtors needs to get involved.

Ms. Harvill indicated that they were aware of the situation. At this point the ordinance proposed is just disclosure, but originally it was written to indicate that in order to sell your home, you needed be in compliance with wood stove emissions.

**Agenda Item 9(b)** Ms. Burke would like to suggest that items for follow-up be extracted from meeting minutes and provided in the meeting packets. She would like to have the Regulation Specialist provide Ms. Walsh with a status update on all outstanding REC regulations.

**Agenda Item 10 – Division Issues/Update**

Martha Hewlett, Fiscal Officer for CBPL was contacted via teleconference. Ms. Chambers had to attend another meeting at this time and wasn't available. Ms. Bates apologized for running late and asked Ms. Hewlett to present her report.

Ms. Hewlett discussed the Revenue and Expenditure reports for the 2<sup>nd</sup> quarter of FY15. She told the REC that FY 14 is trued up and closed out. Ms. Hewlett indicated that in FY14 the Division pulled a report from the database to see the numbers and percentages that are generated through transactions by each board/commission.

Ms. Burke asked Ms. Hewlett about the REC numbers before the 10-year look back. She stated that she had many versions of reports with different numbers and never knew the accurate balance. She asked Ms. Hewlett to provide her with at least two of the numbers either: a) the beginning number before the 10-year look back b) what was the addition (or subtraction) or c) what is it now?

Ms. Bates thanked Ms. Hewlett for her time and report.

The Commission members thanked Ms. Bates and Mr. Cole for their time and commitment while they served on the Commission, Ms. Bates served for 4 years and Mr. Cole served 8 years. Ms. Davis will take over as Chair of the Commission.

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

**RESOLVED to adjourn the meeting.**

**All in favor; Motion passed.**

**Meeting adjourned at 4:42pm.**

Prepared and submitted by:  
Sharon Walsh

Approved:

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Nancy Davis, Vice-Chairperson  
Alaska Real Estate Commission

Date: \_\_\_\_\_