

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

REAL ESTATE COMMISSION  
MEETING MINUTES

March 20, 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 March 20, 2013, at the State of Alaska Atwood Building Conference Room 1270, 550 W. 7<sup>th</sup> Avenue, Anchorage, Alaska.

Wednesday, March 20, 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  
Brad Cole, Associate Broker, 3<sup>rd</sup> Judicial District  
Eric Bushnell, Associate Broker, Broker at Large  
Nancy Davis, Broker, 1<sup>st</sup> Judicial District  
Marianne Burke, Public Member  
Stacy Risner, Associate Broker, 4<sup>th</sup> Judicial District

Members absent:

Charlene Flyum, Public Member

Staff Present:

Sharon Walsh, Executive Administrator  
Beata Smith, Licensing Examiner  
Jennifer Wirawan, Investigator

Guests Present:

David Somers, Broker, Somers & Associate Realtors

Guests Present via telephone:

Karen Wilke, Paralegal

Agenda Item 1b

Approval of Agenda

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

**RESOLVED** to approve the meeting agenda as presented.

**All in favor; Motion passed.**

**Agenda Item 1c**

**New Commission member**

Chairperson, Anita Bates introduced new Commission member Eric Bushnell.

**Agenda Item 1d**

**Thank You Letter to Chris Swires, former Commission member**

Chairperson, Anita Bates read a letter to the members thanking Ms. Swires for an outstanding job and her time dedicated to the Real Estate Commission.

**Agenda Item 2a**

**July 23, 2012 Teleconference meeting minutes**

Commission members reviewed the July 23, 2012 teleconference meeting minutes as presented.

**On a motion duly made by Cole, seconded by Davis, it was,**

**RESOLVED to table the July 23, 2012 until executive session at the end of the day.**

**All in favor; Motion passed.**

**December 5, 2012 meeting minutes**

Commission members reviewed the December 5, 2012 teleconference meeting minutes as presented.

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

**RESOLVED to table the December 5, 2012 until after lunch.**

**All in favor; Motion passed.**

**February 6, 2013 Teleconference meeting minutes**

Commission members reviewed the February 6, 2013 teleconference meeting minutes as presented.

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

**RESOLVED to approve the February 6, 2013 teleconference meeting minutes.**

**All in favor; Motion passed.**

**Agenda Item 3**

### Public Comment

Dave Somers, Representative for the Alaska Association of Realtors asked the Commission members to review and make any changes to the Consumer Pamphlet. Mr. Somers presented the Commission members with a draft copy of the Consumer Pamphlet for their review. Mr. Somers stated that ultimate goal is for the public to be protected. Mr. Cole asked if it is recommended that this form be used for all commercial transactions. Mr. Somers stated that this form should be discussed. Mr. Somers suggested adding new education classes on how to use the form. Ms. Bates suggested modifying the consumer pamphlet to read clearly and understand.

Mr. Somers asked about 12 AAC 64.180(a) regarding credit unions used for trust accounts. Brokers no longer will be able to use credit unions to open their trust accounts, only federally insured banks authorized to do business in this state.

Mr. Somers stated that the Board of Realtors will draft a letter to effect changes to help out the legislative side through the budgetary process and for the Project Assistant's position to be fully funded from the Real Estate Commission's recovery fund.

The Commission Members thanked Mr. Somers for his input and information.

### Agenda Item 4a

#### Education Statistics

Ms. Walsh presented the education statistics to the Commission. As of March 5, 2013 there are currently:

- 9 Pre-Licensing courses
- 203 Elective Continuing Education courses
- 33 Designated Continuing Education courses
- 75 Post Licensing Education courses
- 7 Broker Upgrade Pre Licensing courses
- 328 approved courses
- 30 course sponsors
- 113 currently approved/permanent instructors
- 4 new instructors

There are no temporary instructors during this reporting period.

Ms. Burke stated that it is important to track this for the Commission members to know how much money is going into the Recovery Fund.

### Agenda Item 4b

#### Letter to Instructors

The Commission members looked at the letter written by Ms. Harris to the instructors regarding the certificates of completion that are provided to the licensees. The certificates should contain the expiration date of the course and the expiration date of the instructor

should contain the expiration date of the course and the expiration date of the instructor certificate.

**Agenda item 5a**

**Recovery Fund Balance Report**

Ms. Walsh shared with the Commission members an email from Mary Manning, Finance Officer and the Surety and Real Estate Recovery Fund reports. Commission members reviewed and discussed the report. The Surety Fund report was revised by Mary Manning to show an ending balance and create a beginning balance for the Recovery Fund of \$182,163 as of 3/1/2010.

**Agenda Item 5b**

**Schedule and Revenue and Expenditure**

Ms. Walsh shared an email with the Commission members from Sara Chambers, Professional Licensing Operations Manager regarding Real Estate Commission personnel services billing. Ms. Walsh presented the Commission members with the Schedule and Revenue and Expenditure Report. The Commission Members reviewed the personnel services billing.

**Agenda Item 5e**

**Mail Ballot Results January 2, 2013**

Ms. Walsh stated that the vote was for the Project Assistant's salary to be funded at 100% out of the Recovery Fund.

**Agenda item 4c**

**CE Audits**

**Karen Wilke, Paralegal**

Ms. Wilke explained the process of the paralegal involvement and the continuing education audit process. The CE audits are randomly selected through a computer generated list based on those licensees who renewed through January 31<sup>st</sup>. Ms. Wilke also explained the process of the consent agreement and fines.

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

**RESOLVED to move into executive session to discuss consent agreements.**

**All in favor; Motion passed.**

Into executive session at 10:09 a.m.

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

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

Out of executive session at 10:24 a.m.

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

**RESOLVED to accept the consent agreement, decision and order for  
Case #2013-000365**

**All in favor; Motion passed.**

Consent Agreement for Anna Schulman, Case #2013-000365 was accepted by the Commission.

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

**RESOLVED to accept the consent agreement, decision and order for  
Case #2013-000364**

**All in favor; Motion passed.**

Consent Agreement for Jennifer L. Castro, Case #2013-000364 was accepted by the Commission.

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

**RESOLVED to accept the consent agreement, decision and order for  
Case #2013-000373**

**All in favor; Motion passed.**

Consent Agreement for Creta Bloxom, Case #2013-000373 was accepted by the Commission.

Ms. Burke and Mr. Bushnell recused themselves from voting on the above Consent Agreement.

**Agenda Item 5c**

**Court Case #4FA-12-00081SC**

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

**RESOLVED to approve the Recovery Fund for payment for Vince Meurlott, Claim # RF13-004 in the amount of \$6689.07 plus interest of 3.75% from the date of judgment until paid.**

**All in favor; Motion passed.**

**Agenda Item 5d**

**FY12 Indirect Allocation Explanation**

Ms. Walsh reviewed and discussed the Allocation of FY 12 Indirect Funds to CBPL Licensing Program. Ms. Bates stated that this does not explain the cost increase, it just points out what is attributed. Ms. Burke agreed with Ms. Bates. Ms. Burke stated that it is totally inadequate for the Commission to analyze based on just the information they received and asked that the Commission receive a standardized format with complete answers.

The Commission recessed for break at 10:35 a.m.  
The Commission reconvened from break at 10:50 a.m.

**Agenda Item 5f**

**Recovery Fund Fee Projections**

The Commission members reviewed the Recovery Fund Fee Projections. The projections were base on \$55 and \$100 fees. Ms. Walsh suggested doing an analysis to get a better prospective on setting the recovery fund fee.

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

**RESOLVED to set aside Agenda Item 5f until later in the day under  
Agenda item 9f.**

**All in favor; Motion passed.**

**Agenda Item 6a**

**Licensing Statistics**

Ms. Smith presented the licensing report for the period of November 17, 2012 through March 5, 2013.

Expiration date of 1/31/2014:

- 69 new licensees
- 2328 total number of licensees
- 2201 total number of active licensees
- 60 total number of inactive licensees
- 54 licensees broker contact with a broker
- 63 licensees completed their post-licensing education (PLE)

Since the last licensing report there were 15 main offices that opened and 1 branch office that opened.

**Agenda Item 6b**

**Regulation Tracker**

Ms. Smith presented the regulation tracker to the Commission members for their review. Ms. Bates will draft a letter to the Director of Division of Corporations, Business and Professional Licensing regarding regulations that are still outstanding. Ms. Bates asked

that Ms. Smith email the Commission members all the regulation projects that are still outstanding before each meeting.

**Agenda Item 6c**

**Communication with Brokers and Licensees**

Ms. Risner suggested that the Licensing Examiner correspond with the terminating Brokers when a licensee is leaving their office and the transfer paperwork has not been submitted but the terminating Broker signed off on the original license.

**Agenda Item 7a**

**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 from November 17, 2012 through March 7, 2013.

- 13 opened files
- 26 closed files
- 39 total open investigations
- 5 closed investigations
- 2 license actions

**Agenda Item 7c**

**Investigative Matters**

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

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

**All in favor; Motion passed.**

Into executive session at 11:33 a.m.

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

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

**All in favor; Motion passed.**

Out of executive session at 12:13 p.m.

**Case #2013-000463**

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

**RESOLVED to approve the Imposition of Civil Fine for case #2013-**

**000463.**

**All in favor; Motion passed.**

Mr. Cole recused himself from Case #2013-000463 in the matter of Tina Morales, Imposition of Civil Fines.

Case #2011-000842

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

**RESOLVED to approve the imposition of civil fine for Case #2011-000842.**

**All in favor; Motion passed.**

Mr. Cole and Ms. Burke recused themselves from Case #2011-000842 in the matter of Michael VanSickle.

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

**RESOLVED to approve the application for reinstatement of license, Case #2012-000979**

**Opposed were: Ms. Risner, Mr. Bushnell, Ms. Burke, and Ms. Davis.**

Mr. Cole recused himself from Case #2012-000979.

The Commission members denied the application for reinstatement for Sandra Nunes.

The Commission recessed for lunch at 12:20 p.m.  
The Commission reconvened from lunch at 1:13 p.m.

**Agenda item 4c continued**

Case #2013-000369

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

**RESOLVED to move into executive session to discuss consent agreement Case #2013-000369.**

**All in favor; Motion passed.**

Into executive session at 1:15 p.m.

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

**RESOLVED to come out of executive session.  
All in favor; Motion passed.**

Out of executive session at 1:25 p.m.

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

**RESOLVED to accept the Consent Agreement, decision and order for  
Case #2013-000369**

**All in favor; Motion passed.**

Consent Agreement for Sharilyn Erickson, Case #2013-000369 was accepted by the Commission.

**Agenda item 2b continued**  
**December 5, 2012 meeting minutes**

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

**RESOLVED to approve the December 5, 2012 meeting minutes.**

**All in favor; Motion passed.**

**Agenda Item 8a**  
**12 AAC 64.180(a)**

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

**RESOLVED to accept regulation 12 AAC 64.180(a) as amended to read: *(a) Every real estate broker shall establish one or more trust accounts in a federally insured bank authorized to do business in this state, and the name of the account so established must include the words "trust account" or "trustee account."***

**All in favor; Motion passed.**

**12 AAC 64.930(a)**

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

**RESOLVED to withdraw regulation 12 AAC 64.930(a) from the regulation project.**

**All in favor; Motion passed.**

**Agenda Item 8b**

**Letters from A. Bates**

Ms. Bates discussed the letter that was sent out to Don Habeger, Division Director regarding sending the Executive Administrator to the annual ARELLO conference and Ms. Wirawan to the Investigator Workshop training provided through ARELLO.

Ms. Bates discussed the letter that was sent to James Studley, Broker at Haines Real Estate regarding intervention with Alaska Public Offices Commission (APOC). The Real Estate Commission does not have jurisdiction over APOC, therefore, no action has been taken.

**NE Court Case: Leslie Rae Young**

Ms. Bates discussed the NE Court Case: Leslie Rae Young with the Commission members. Leslie Rae Young holds a Brokers real estate license in California she operated a website that placed listings on "realtor.com" through a California multiple listing service and also placed listings on "forsalebyowner.com". On March 11, 2010 and July 20, 2010, the Nebraska Real Estate Commission filed a "cease and desist" order against Ms. Young over her practice of advertising properties located in Nebraska without a Nebraska real estate license. Ms. Bates suggested that the Commission might want to find out what can be done with regards to legislative change to the statutes that explicitly states that an individual must hold an Alaska real estate license to advertise, or do anything that might be conceived or doing real estate business in Alaska. Mr. Bushnell along with Mr. Somers will work on looking into the statutes for possible changes.

**Best Business Practice: Education PLE & CE**

The Commission briefly discussed Best Business Practice: Education PLE & CE. Ms. Risner suggested citing the dates when the recommendation was put out, it would be helpful to the public.

**Staffing Proposal**

The Commission will discuss staffing proposal during an executive session under Tab 9c.

**Agenda Item 8c**

**Recovery Fund Fees – Fees collected during 12/2011 through 12/2012**

During the December 2012 meeting the Commission members asked staff to prepare a spreadsheet with fees collected that were placed in the recovery fund. The Commission reviewed the spreadsheets prepared by Ms. Harris and Ms. Smith. Ms. Walsh asked the Commission if their understanding of the \$30 Affidavit of PLE fee should be placed in the Recovery Fund or in the Real Estate Commission revenue. The Commission members agreed that this fee belongs in the Recovery Fund.

**Case #2012-000361**

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

**RESOLVED to move into executive session.**

**All in favor; Motion passed.**

Into executive session at 1:53 p.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 2:10 p.m.

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

**RESOLVED to accept the Consent Agreement, decision and order for  
Case #2012-000361**

**Opposed were: Ms. Risner, Mr. Bushnell, Ms. Burke, and Ms. Davis, Mr.  
Cole.**

The Commission members denied the Consent Agreement, Case #2012-000361. This will be referred back to the Investigative unit requesting a different investigator to review this case file. Investigator Wirawan later reported to the Commission that this matter is now assigned to her as requested by the Commission. Denial is based on AS 08.88.071(a)(1)(3)(4) and 12 ACC 64.099.

**Agenda Item 9a**

**Education Topics for Licensing Period 2/1/2014 through 1/31/2016**

Ms. Risner discussed with the Commission members the education topics for licensing period 2/1/2014 through 1/31/2016. Ms. Bates suggested forming a committee to recommend the new 8 DCE topics for the next licensing period and to report to the Commission with recommendations at the June 2013 meeting. Ms. Risner volunteered to poll the brokers for CE topics.

**Agenda Item 9b**

**12 AAC 64.059(f)(6)**

Ms. Smith proposed a revision to regulation 12 AAC 64.059(f)(6) by adding *submits evidence of completing six contact hours of course work on Alaska real estate law as required in 12 AAC 64.063(c)(7)*.

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

**RESOLVED to approve the proposed regulation change 12 AAC 64.059(d)(5)(6)(7).**

Ms. Davis withdrew her motion.

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

**RESOLVED to approve the proposed regulation change on regulation 12 AAC 64.059(f) to read: *submits evidence of completing six contact hours of course work on Alaska real estate law as required in 12 AAC 64.063(c)(7).***

**All in favor; Motion passed.**

**Agenda Item 9c**

**AREC Consumer Pamphlet**

The Commission members reviewed and discussed the updated version of the Consumer Pamphlet presented by Ms. Walsh. Ms. Bates stated that there are a lot of areas that need to be worked on, not only a change to the form which is adopted by regulation but also some regulations to show how the form is to be used so it will be applied more consistently. Mr. Bushnell and Ms. Davis have volunteered to work on simplifying the Consumer Pamphlet. They will report back to the Commission at the June 2013 meeting.

**Agenda Item 9d**

**12 AAC 64.130(20)**

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

**RESOLVED to accept regulation project 12 AAC 64.130(20) to read: *Failing to notify the Commission or the Commission's representative if a licensee has actual knowledge that another licensee has or is engaged in forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or other similar offenses.***

**All in favor; Motion passed.**

**12 AAC 64.064**

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

**RESOLVED to accept regulation project 12 AAC 64.064 to read: *A licensed salesperson issued an initial license as a broker or associate broker who fails to meet the educational requirements of this section as established in 12 AAC 64.064(a) shall, upon application and***

*payment of the required fees, be reissued a salesperson's license provided that the licensee continues to be eligible for a salesperson license.*

All in favor; Motion passed.

**Agenda Item 9d**  
**Personnel Matters**

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

**RESOLVED** to move into executive session to discuss personnel issues.

All in favor; Motion passed.

Into executive session at 2:53 p.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 4:01 p.m.

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

**RESOLVED** to ask Alaska Association of Realtors to work with the legislature to assist in getting Nancy Harris' job funded a 100% from the recovery fund.

Ms. Davis would like to make a friendly amendment by changing Nancy Harris to Project Assistant to the motion.

**RESOLVED** to ask Alaska Association of Realtors to work with the legislature to assist in getting Project Assistant's job funded a 100% from the recovery fund.

All in favor; Motion passed.

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

**RESOLVED** to ask Alaska Association of Realtors to work with the legislature to provide legislative language to increase the Executive

**Secretary of the Real Estate Commission position to range 23 that would be consistent with the Nursing and CPA boards.**

**All in favor; Motion passed.**

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was, RESOLVED to approve the July 23, 2012 teleconference meeting minutes.**

There was further discussion. Mr. Cole made a clarification on page 3 of page 5, 3<sup>rd</sup> paragraph. Last sentence to be changed to more reflect to what was discussed. To read: *and that investigation will come under a Commissioners review prior to any intensive investigation being launched.*

**All in favor; Motion passed.**

Ms. Bates stated that Ms. Walsh will provide the Commission with additional information on the recovery fee projections and follow up with a mail ballot or a teleconference to make decisions on what to request or recommend to the Division.

**On a motion duly made by Ms. Davis, seconded by Ms. Risner, it was, RESOLVED to adjourn the meeting.**

**All in favor; Motion passed.**

Meeting adjourned at 4:05 p.m.

Commission adjourned until the next regular scheduled meeting on June 5-6, 2013 in Anchorage.

Prepared and submitted by Beata Smith.

Approved: Anita Bates  
Anita Bates, Chairperson  
Alaska Real Estate Commission  
Date: 6/12/2013