

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 September 27, 2017  
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 meeting of the Real Estate Commission was held  
12 September 27, 2017, at the State of Alaska Atwood Building, 550 W. 7<sup>th</sup> Avenue,  
13 ACC 104, Anchorage, Alaska.  
14

15 **Wednesday, September 27, 2017**

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

17 Chairperson Eric Bushnell called the meeting to order at 9:00 a.m. at which time a  
18 quorum was established.  
19

20 **Roll Call – 1(a)**

21 **Members present:**

22 Guy Mickel, Broker, 1<sup>st</sup> Judicial District,  
23 Marianne Burke, Public Member  
24 Eric Bushnell, Associate Broker at Large, Chair  
25 David Pruhs, Broker, 4<sup>th</sup> Judicial District  
26 Traci J. Barickman, Broker, 3<sup>rd</sup> 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 Doug Fell, Investigator  
34 Greg Francois, Senior Investigator  
35

36 **Staff Present via telephone:**

37 Janey Hovenden, Director, CBPL  
38

39 **Guests Present:**

40 Errol Champion, Representative for AK Association of Realtors and Broker of  
41 Coldwell Banker Race Realty, Juneau  
42 Anita Bates, Associate Broker, Dwell Realty, Anchorage  
43 Devon Thomas, Broker, Century 21 Realty Solutions, Wasilla  
44 Shana Ackles, Broker, Keller Williams Realty, AK Group  
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47 **Approval of Agenda- 1(b)**

48 Commission members reviewed the meeting agenda.  
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50 **On a motion duly made by Mr. Pruhs, seconded by Ms. Cartledge, it**  
51 **was,**

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**RESOLVED to approve the meeting agenda for September 27, 2017 as amended and discussed.**

Ms. Harris asked if one item could be added to the agenda. Under tab 6, Education Report, add (e) regarding PLE Education.

**All in favor; Motion passed.**

**Agenda Item 2 - Approval of Meeting Minutes**  
**July 12, 2017 – 2(a)**

**On a motion duly made by Ms. McConnochie, seconded by Mr. Pruhs, it was,**

**RESOLVED to approve the July 12, 2017 meeting minutes.**

**All in favor; Motion passed.**

Discussion: Ms. Burke indicated a correction on line 580. The term “**dispute**” should be changed to “written claim”. Also, on line 568 the word “not” should be removed.

All in favor; motion passed to accept the meeting minutes as revised.

**Agenda Item 3 – Public Comment**

Errol Champion addressed the Commission and brought to their attention two issues of concern.

Mr. Champion suggested that the Residential Real Property Disclosure form be expanded to include number of occupants in a home and whether or not they are occupied year-round or are they “snowbirds”. The other item that he suggested is green ratings, such as 4-star or 5-star energy ratings on homes. If there was an energy audit it should be provided to the buyer and the inspection of the audit should be included in the disclosure. He mentioned that the form has not been revised since 2008. Chair Mr. Bushnell added to Mr. Champion’s comments by suggesting that the date of the energy rating should also be included to make sure it’s relevant. Mr. Champion stated this information is important for the seller to disclose. He also suggested that a disclosure of a home security system should be on the form. He stated that this adds value. He indicated that this needs to be made more of a priority for sellers to disclose this information. Ms. McConnochie reminded everyone that the seller completes this disclosure and it is not up to the licensee to complete. Mr. Pruhs suggested the Commission should work on updating the Residential Real Property Disclosure form. Mr. Champion concluded by congratulating the Commission on a successful audit. He said AK Association of Realtors (AAR) is in favor of the REC extension to June 2026 and wanted to know if AAR needs to create legislation for this extension or is it done at the Governor’s

100 office? REC will look into this and get back to Mr. Champion. Ms. McConnochie  
101 congratulated Mr. Champion on being named Realtor of the Year by the AAR. Ms.  
102 Walsh introduces the REC to the new investigator Doug Fell. Ms. Burke asks about  
103 his background. Investigator Fell has 10 years' experience as a police/resource  
104 officer and Deputy Sheriff in CO.

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**Agenda Item 4 – Old Business**

108 Ms. Barickman stated that she and Ms. Ackles, now Associate Broker of Keller  
109 Williams worked together to present a draft proposal on the consumer disclosure  
110 for the Commission's consideration today. Ms. Cartledge asked if the context or  
111 language in the original disclosure form changed. Ms. Barickman stated that the  
112 change is to disclose team members, that may provide a consumer with specific  
113 assistance and it provides awareness that there are team members. Ms. Cartledge  
114 asked about confidential information being provided by the consumer. Ms.  
115 Barickman stated that confidential information will always be confidential. Ms.  
116 Cartledge stated her concern for confidentiality when a consumer is working with a  
117 team. Ms. Barickman said Brokers have policies on confidentiality or they should.  
118 She stated that her team does not have access to her confidential information. It is  
119 a best-practices matter. Ms. Burke stated that the form should have a time and  
120 date added. Mr. Bushnell reminded everyone this is a disclosure document. Mr.  
121 Pruhs stated this is not a one-size fits all document. Mr. Pruhs added that we will  
122 tweak it a bit but continue having this discussion. Mr. Mickel asked, what are we  
123 really disclosing here? He stated he is all for disclosure but it's really confusing.  
124 Chair Bushnell stated this disclosure opens the door for discussion with the  
125 consumer. Ms. Cartledge asked, if team leaders and members are in different  
126 capacities-does it make sense for everybody to sign the document? She  
127 suggested to choose one and only one, if the relationship changes then you  
128 complete another form. Commission members discuss form.

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Ms. Cartledge stated that from a consumer standpoint, we want to be clear how they are providing specific assistance.

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**On a motion duly made by Ms. Barickman, seconded by Mr. Pruhs, it was,**

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**RESOLVED to move that the REC move consumer disclosure draft into a proposed regulation project.**

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**All in favor; Motion passed.**

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**On a friendly amendment by Ms. Cartledge and seconded by Mr. Pruhs**

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**RESOLVED to include date and time on the consumer disclosure form (12 AAC 64.117.**

**All in favor; Amendment to Motion passed.**

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Ms. Barickman asked if Ms. Harris will change the form to include these changes, including date and time. Ms. Harris stated she would make those changes.

**On a friendly amendment by Ms. McConnochie and seconded by Ms. Barickman**

**RESOLVED to add “pre-authorize” in front of word, neutral licensee.**

Commission members discuss when licensees would use this. Licensees still need a Waiver to go neutral. Ms. Cartledge stated you can’t pre-authorize a Waiver. Ms. McConnochie stated this pre-authorization provides for a potential future relationship. The consumer has the right today to pre-authorize. Ms. Cartledge stated you can’t pre-authorize without the Waiver.

**On a friendly amendment by Ms. Cartledge and seconded by Ms. Barickman**

**RESOLVED to add parenthetical language: “Subject to the execution of the Waiver of Right to be Represented, it must be signed and not just attached. Delete: must attach and include subject to the execution of the Waiver of Right. Marking the box, ”pre-authorization” is not valid unless Waiver of Right is executed.**

Ms. McConnochie calls for the question.

**All in favor; Motion passed.**

Commission recessed for Break at 10:48 a.m.  
Commission reconvened from Break at 11:02 a.m.

Commission moves to agenda item 5(f) proposed regulation changes for 12 AAC 64.117

**On a motion duly made by Mr. Pruhs, seconded by Ms. Barickman, it was,**

**RESOLVED to table discussion on team consumer disclosure.**

**On a motion duly made by Ms. Barickman, seconded by Ms. McConnochie, it was,**

196                   **RESOLVED to change under paragraph a (5): 12 AAC 64.117 to**  
197                   **read: for maintaining confidentiality. Delete: within the office for**  
198                   **all transactions.**

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

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202 Ms. Barickman asked if they want to change (6)?

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204                   **On a motion duly made by Ms. Cartledge, seconded by Ms. Barickman,**  
205                   **it was,**

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207                   **RESOLVED to make a change to 12 AAC 64.117 A broker shall**  
208                   **adopt a policy addressing the guidelines and procedures:**

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210                   **All in favor; motion passed.**

211  
212 Ms. Barickman stated that this will be a clear policy on how a Broker deals with  
213 teams. There is no harm in the Commission telling the Broker you need to have a  
214 policy that addresses team disclosure.

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216                   **On a motion duly made by Ms. Cartledge, seconded by Ms.**  
217                   **McConnochie, it was,**

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219                   **RESOLVED to make a change to 12 AAC 64.117 (6) will go away**  
220                   **as proposed and replace with modifying it for “teams”: A policy**  
221                   **addressing the consumer disclosure mandated by 12 AAC**  
222                   **64.118 as amended from time to time.**

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224                   **All in favor; motion passed.**

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226 Mr. Pruhs asked where this will be inserted. Ms. Cartledge stated that it will be in 6.  
227 Ms. Walsh stated that it is going into 12 AAC 64.117 but will be referencing 12  
228 AAC 64.118.

229 Chair Bushnell told the commission it's 11:46 let's go back to the consumer  
230 disclosure.

231  
232 Mr. Pruhs stated he was going to move to remove from the table and bring back  
233 the consumer disclosure.

234  
235 Ms. Barickman address concerns brought up by Ms. Cartledge and McConnochie  
236 regarding team members disclose their representation. She explained to them that  
237 this is telling the consumer, you may also receive specific assistance. A team  
238 member may need to also represent you. If they change representation from  
239 specific assistance then they need to sit down with the consumer and do a new  
240 consumer disclosure.

241

242 Chair Bushnell indicated that this is why the broker policy is so important because  
243 the person doesn't have to represent them but they don't hold confidential  
244 information without representation.

245 Ms. Cartledge suggested putting in bold and italics, "in addition to the licensee  
246 named above, you may receive specific assistance without representation, from  
247 the following licensees that are members of the team above".

248 Ms. McConnochie stated that we need to get people on the top as well as the  
249 bottom of the form. Ms. Cartledge asked the commission to consider a new form.  
250 Chair Bushnell stated that they consider two forms-one for individuals and one for  
251 teams.

252 Ms. McConnochie agreed with that.

253 Ms. Barickman suggested that this idea be tabled and she would create two types  
254 of disclosure forms and present them at the December meeting. Mr. Mickel likes  
255 the idea of two forms because they are different.

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258 **On a motion duly made by Mr. Pruhs, seconded by Ms. McConnochie,**  
259 **it was,**

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261 **RESOLVED to postpone item 4(a) to the next regular meeting of**  
262 **the Alaska Real Estate Commission.**

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264 **All in favor; motion passed.**

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267 **On a motion duly made by Mr. Pruhs, seconded by Ms. McConnochie,**  
268 **it was,**

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270 **RESOLVED to amend the motion to include all of the items in**  
271 **agenda item 4 to the next regular meeting of the Alaska Real**  
272 **Estate Commission.**

273

274 **All in favor; motion passed.**

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277 Commission recessed for Lunch at 12:06 p.m.

278 Commission reconvened from Break at 12:51 p.m.

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### 281 **Agenda Item 5 – New Business**

282 **Re-cap of ARELLO Annual Conference 9/20-24/2017 – 5(a)**

283 Ms. Walsh gave a report of information she received from the ARELLO  
284 conference.

285

286 Super Boards. Some jurisdictions will now have super boards effective July 1,  
287 2018. No more individual boards but one super board with all professions.

288

289 Teams continue to be a problem in all jurisdictions. Advertising being the number  
290 one issue.

291

292 Cyber security is a big issue. Clients receiving information to send their earnest  
293 money to the wrong place.

294

295 Whisper/pocket Listing. Off the market listings are on the rise in many jurisdictions.

296

297 Coming soon signs (not fully marketed). Many jurisdictions have created laws to  
298 address this issue. One jurisdiction has a law in place, because it has been such a  
299 problem, that a coming soon sign can only be up for 21 days.

300

301 New technology- ZOOM. Similar to webinar but easier and better. Ms. Walsh said  
302 she is going to look into this for the Commission to use.

303

304 BC was considering limiting the number of people that a broker can supervise. TX  
305 said they need to be careful because the restraint of trade by the NTC.

306

307 Education -TX is looking at, not necessarily on quantity but quality of education.  
308 AZ, with 83,000 licensees, reviews 240 classes a month. AR developing education  
309 specifically for brokers and salesperson, the license type. WV has a task force to  
310 develop outline for pre salesperson and broker courses. NC had mandatory  
311 courses that the Commission and staff developed specific to commercial, property  
312 management and sales because they saw a struggle of licensees taking the  
313 incorrect courses.

314

315 E & O insurance. Spoke with a number of jurisdictions (ND, NE, and ID) regarding  
316 their process. They said they are pleased with E & O and their insurance provider.

317

318 Commission members discussed what a licensee must submit to prove they have  
319 E & O insurance before they renew their license.

320

321

322 Set Aside Funds: Stds for Equivalent Coverage – 5(b)

323 Ms. Burke addressed the Commission regarding set aside funds under the  
324 standards for equivalent coverage. She said that if you want to self-insure you  
325 have to certify with the Commission that you have sufficient funds set aside; they  
326 have the cash or resources to pay the claims should they lose.

327

328 Commission recessed for Break at 1:44 p.m.

329 Commission reconvened from Break at 1:52 p.m.

330

331 The Commission reviewed and discussed the Idaho Real Estate Commission's  
332 certificate of coverage that the licensees use for proof of equivalent coverage to  
333 get a sense of what the REC will be using. There is a concern that brokerages that  
334 have E & O insurance coverage for every licensee under their office but they are  
335 not name in their policy. How does the licensee prove to the REC that they have E  
336 & O Insurance?

337

338 Mr. Bushnell noted for the Commission regulation 12 AAC 02.530(2)- a broker  
339 employing other real estate licensees may comply with the requirements of 12  
340 AAC 02.510(a)(1) and (2) by obtaining insurance with coverage of a minimum of  
341 \$300,000 per wrongful act and \$1,000,000 aggregate, if all licensees associated  
342 with the broker are covered.

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345 E & O policy and required forms from RISC – 5(c)

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347 Report from AK Association of Realtors conference – 5(d)

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350 Election of Officers – 5(e)

351 Chair-

352

353 **Mr. Pruhs nominated Eric Bushnell for Chair.**

354 **Ms. Burke nominated Ms. Barickman for the position of Chair.**

355 **Ms. McConnochie closed the nominations.**

356

357

358 Ms. Barickman was elected to the position of Chair of the Commission by ballot  
359 vote.

360

361 Vice Chair-

362

363 **Ms. Burke nominated Cindy Cartledge for the position of Vice-Chair.**

364 **Ms. McConnochie closed the nominations.**

365

366 Ms. Cartledge was elected to the position of Vice-Chair of the Commission by  
367 consensus.

368

369 Education Liaison-

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371 **Mr. Mickel nominated Ms. McConnochie for the position of Education**  
372 **Liaison.**

373

374 Ms. McConnochie was elected to the position of Education Liaison of the  
375 Commission by consensus.

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378 Proposed Regulations – 5(f)

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380 This proposed regulation is a cleanup to reflect the statute change to broker  
381 education increasing the hours from 15 to 30.

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383 **On a motion duly made by Ms. Cartledge, seconded by Ms.**  
384 **McConnochie, it was,**

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**RESOLVED to approve proposed regulation 12 AAC 64.059(d)(4) to move forward.**

**All in favor. Motion passed.**

**Agenda Item 6 – Executive Administrator’s Report**

**Licensing Statistics – 6(a)**

Ms. Walsh presented the licensing statistics to the Commission from April 1, 2017 through June 30, 2017. She said there are currently 2,738 total active licensees and 3,005 total licensees with a 01/31/2018 expiration date. She said there were 8 new real estate offices opened during the past 3 months.

Ms. Burke asked what happens at renewal when a licensee’s license indicates it was returned to the Commission?

Ms. Walsh said the licensee would need to activate their license and then renew.

**Recovery Fund Balance Report – 6(a)**

Mr. Walsh went over the Recovery Fund Balance report with the Commission. The Real Estate Recovery Statement of Revenues, Expenditures and Fund Changes as of 06/30/17. She said the report indicated a revenue of \$41,338, total expenditures for the year as \$119,361 with a net change in fund balance of \$78,024. The beginning of the year/quarter balance was \$461,996 and end of year/quarter balance of \$383,972.

**Legislative Audit Sunset Review of REC – 6(d)**

Ms. Walsh said the Legislative Audit Sunset Review of REC was put in the board book for their review.

Mr. Bushnell said that one of the question from the auditor was how are the education courses monitored for effectiveness? He said we really do not have a mechanism in place to monitor courses for effectiveness.

Ms. Burke said that she monitored a course, at the request from staff, at the AAR convention. She said that half of the two hour time period was irrelevant; it did not have anything to do with the topics. She said the course was interesting but more motivational. The second part was more relevant. She said if she was choosing a course for CE she would not have picked this course. She encouraged other Commission members to audit a course and give feedback to the instructor.

Mr. Pruhs said that with regards to the audit and monitoring of courses maybe we should look at a correlation between the increase in complaints and offering education courses in those areas.

**Agenda Item 8 – Division Update**

Janey Hovenden, Director of CBPL, presented to the Commission the Division’s REC Fee Analysis and the recommended fees.

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The Commission members discussed the fee analysis and recommended fees.

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

**RESOLVED to move to accept the Division’s proposal with the following changes: increase the license inactivation/reactivation fee to \$150.00 and increase the reinstatement fee for lapsed license fee to \$275.00.**

**All in favor; Motion passed.**

Mr. Bushnell asked that Director Hovenden reconsider the travel request that was denied for the REC investigator to attend the ARELLO investigator workshop.

Director Hovenden asked that she received a letter by the end of the day stating how this travel is essential travel.

**On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it was,**

**RESOLVED to move that the Chair write a letter to the Governor and our Director requesting funds to send our investigator to the next ARELLO investigator workshop October 17 – 19, 2017. All expenses are paid fee with no fees from General Funds.**

**All in favor; Motion passed.**

**Agenda Item97 – Investigative Report**

**Statistical Report – 9(a)**

Investigator Doug Fell provided the Commission with investigation statistics from June 21, 2017 through September 7, 2017 this includes cases, complaints, and intake matters. He said since the last report there have been 9 opened cases, 19 closed cases, 12 intakes, 12 cases remain on-going and under investigation.

**Probation Report – 9(b)**

Senior Investigator Greg Francois presented the probation report on behalf of the probation monitor Karina Medina. Mr. Francois said there are 15 licensees on probation and 2 licensees on hold.

Mr. Francois handed out an information sheet to the Commission members of the investigative process. He said they do not take anonymous complaints unless we can verify a possible violation for pure objectivity. The priority for investigations is

481 the immediate threat to public safety. Mr. Francois explained the investigative  
482 process to the Commission.

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484 Ms. Cartledge addressed Mr. Francois on the subject of Commission members  
485 who review cases. She said that he had said that the reviewing member from the  
486 board is a licensed professional. She said that the reviewing member from the  
487 Commission does not necessarily need to be a licensed professional. She went on  
488 to say that there is nothing in statute and regulations that prevents or precludes a  
489 public member from reviewing cases. She said there is skill set brought by the  
490 public members that could be utilized in certain circumstances. She said she  
491 wanted that to be clear because there are instances that a skill set of an  
492 accountant and attorney might be useful.

493  
494 Mr. Francois said there is nothing in statutes and regulations that indicates it has to  
495 be a real estate professional. However, he said it is a division policy not to use  
496 public members as reviewing members.

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498 Mr. Francois said that what they look at as investigators is how did that reviewing  
499 member come to the decision that this was a violation? He said that he could not  
500 find anything in statute or regulations that prevents a public member from  
501 reviewing cases but it is a division policy. That investigators use only licensed  
502 members of a board.

503  
504 Ms. Burked asked Mr. Francois for a copy of that policy.

505  
506 Mr. Francois said that with regards to the audit they have revised the investigations  
507 SOP to specifically address timeliness. He said that each case has to be  
508 touched by meaningful investigative activity every 30 days.

509  
510 Mr. Francois said that Chief Angela Birt is leaving her position and he will be filling  
511 in as Chief of investigations until the position is filled.

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514 **Agenda Item 6 – Executive Administrator’s Report cont’d**

515 **Consideration of Licensing Application CC – 6(c)**

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518 **On a motion duly made by Ms. Barickman, seconded by Mr. Mickel, it**  
519 **was,**

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521 **RESOLVED that they go into executive session** in accordance  
522 **with AS 44.62.310(c) for the purpose of discussing subjects that tend**  
523 **to prejudice the reputation and character of a person.**

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

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527 Ms. Barickman said there was nothing in the statutes or regulations that allow the  
528 Commission to consider a waiver under these circumstances.

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The Commission went into Executive session at 3:48 p.m.

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

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

**All in favor; Motion passed.**

The Commission came out of Executive session at 4:05 p.m.

**On a motion duly made by Ms. Barickman, seconded by Mr. Pruhs, it was,**

**RESOLVED to move grant the license application discussed in executive session.**

**All opposed; Motion failed.**

Mr. Bushnell stated that the application for Crystal Chambers was not approved.

The Commission members stated that the finding for facts for the application for licensure not being granted for Ms. Chambers was AS 08.88.171(c). This statute states that to qualify for a license an individual cannot be under indictment for fraud, among other things, and if convicted of such offense, seven years have elapsed since the person completed the sentence imposed upon conviction.

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

**RESOLVED to move grant a waiver for additional time for the licensee discussed in executive session.**

Ms. McConnochie recused herself on this issue.

**All opposed; Motion failed.**

Mr. Bushnell stated that the waiver for Bennie Colbert was not approved.

The Commission said as the finding of facts there was nothing in the Real Estate

577 statutes and regulations that allowed them to consider a waiver based on the  
578 circumstances.

579

580 **Agenda Item 7 – Education Report**

581 **Education Statistics – 7(a)**

582 Ms. Harris presented the education statistics to the Commission. She said there is  
583 currently 10 pre licensing courses, 16 broker upgrade course, 340 elective  
584 continuing education courses, 64 designated continuing education courses, 69  
585 post licensing education courses, 105 permanent instructors and 5 temporary  
586 instructors.

587

588 Mr. Pruhs left the meeting at 4:15 p.m. to make his flight back to Fairbanks.

589

590 **Set DCE topics – 7(b)**

591 The Commission discussed the 8 hours of Designated Continuing Education  
592 (DCE) for the next licensing period.

593

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

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597 **RESOLVED that the DCE topics for 2018-2020 are:**

598

- **Ethical Situations – 2 hours**
- **Title reports, encroachments and easements – 2 hours**
- **Contract law – 2 hours**
- **Inspections and Disclosure – 2 hours**

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

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606 **PLE education – 7(c)**

607 Ms. Harris asked the Commission members for clarification on a question  
608 regarding Broker education. If someone has taken the 15 hours of broker  
609 education prior to the change to 30 hours but have not completed the other  
610 requirements, would they take an additional fifteen hours or can they use their 15  
611 hour certificate?

612

613 The Commission members agreed that they would have to take the 30 hours over  
614 again because that regulation is no longer effective and the hours are allocated  
615 differently so it would difficult to take an additional 15 hours.

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617 **December Meeting Date**

618 Commission members discussed the date of the December meeting. They  
619 considered moving the date but decided to leave the date as December 6, 2017.

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622 **On a motion duly made by Ms. Barickman, seconded by Ms.**  
623 **McConnochie, it was,**

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**RESOLVED to adjourn the meeting.**

**All in favor. Motion passed.**

**Meeting adjourned at 4:52 p.m.**

Prepared and submitted by:  
Real Estate Commission Staff

Approved:



Eric Bushnell, Chairperson  
Alaska Real Estate Commission

Date: December 6 2017.