

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 March 21, 2018  
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article  
11 6, a scheduled meeting of the Real Estate Commission was held March 21, 2018, at the  
12 State of Alaska Atwood Building, 550 W. 7<sup>th</sup> Avenue, Suite 1270, Anchorage, Alaska.  
13

14 **Wednesday, December 6, 2017**

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

16 Chairperson Traci Barickman called the meeting to order at 9:00 a.m. at which time a  
17 quorum was established.  
18

19 **Roll Call – 1(a)**

20 **Members present:**

21 Guy Mickel, Broker, 1<sup>st</sup> Judicial District,  
22 Marianne Burke, Public Member  
23 Eric Bushnell, Associate Broker at Large  
24 David Pruhs, Broker, 4<sup>th</sup> Judicial District  
25 Traci J. Barickman, Broker, 3<sup>rd</sup> Judicial District, REC Chairperson  
26 Peggy Ann McConnochie, Broker, Broker at Large  
27

28 **Members Absent:**

29 Cindy Cartledge, Public Member  
30

31 **Staff Present:**

32 Sharon Walsh, Executive Administrator  
33 Nancy Harris, Project Assistant  
34 Doug Fell, Investigator  
35 Karina Medina, Probation Officer  
36 Sara Chambers, Deputy Director, Div. of Corporations Business and Professional  
37 Licensing  
38

39 **Guests Present:**

40 Errol Champion, Representative for AK Association of Realtors and Broker of Coldwell  
41 Banker Race Realty, Juneau  
42 Anita Bates, Associate Broker, Dwell Realty, Anchorage  
43 Joe & Lonnie Logan, Assoc Brokers, Herrington & Co., Anchorage  
44 Renee Miller, Associate Broker, EXP Realty  
45 Shana Ackles, Associate Broker, Keller Williams Realty, AK Group  
46 Deborah Brollini, Public attendee  
47

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

49 Commission members reviewed the meeting agenda.  
50

51 **On a motion duly made by Ms. McConnochie, seconded by Mr. Pruhs, it was,**  
52

53 **RESOLVED to approve the meeting agenda for March 21 2018 as**  
54 **amended and discussed.**  
55

56 Ms. Barickman asked that two items on the agenda be rearranged, 5(a) and 5(d) to  
57 accommodate applicant's schedule.

58  
59 **All in favor; Motion passed with changes.**

60  
61  
62 **Chair Barickman asked if any of the Real Estate Commission (REC) members had**  
63 **any conflicts of interest to disclose since their disclosure at the last meeting in**  
64 **December 2017. REC members did not have any new disclosures to add.**

65  
66 **Agenda Item 2 - Approval of Meeting Minutes**  
67 **December 6, 2017 – 2(a)**

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

70  
71 **RESOLVED to approve the December 6, 2017 meeting minutes.**

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73  
74 **All in favor; Motion passed.**

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77 **Agenda Item 3 – Public Comment**

78  
79 Errol Champion with the Alaska Association of Realtors (AAR) addressed the  
80 Commission. He had a few items to discuss with the Commission. He asked Ms. Walsh if  
81 she wanted him to address the status of HB279 –which is the REC extension (sunset) bill.  
82 Ms. Walsh indicated that the members would appreciate a current update. Mr. Champion  
83 provided a brief overview of the history and language of the bill and stated that Rep.  
84 Josephson introduced the bill in the House and that it has since passed the House and  
85 moved to the Senate Labor & Commerce. Mr. Champion explained the legislative process  
86 but that HB279 will pass the Senate and not to worry. He indicated that the AAR was on  
87 record for opposing HB90, it was ultimately withdrawn by the bill's sponsor Rep. Kito.  
88 Mr. Champion also brought to the attention of the REC about the possibility of Rep. Grenn  
89 introducing a bill that would allow for rebates. He stated that 11 states do not allow for  
90 sharing of rebates. Mr. Champion indicated that there is a problem with kickback offers  
91 which he thinks would increase investigative matters, he ended by saying no legislation  
92 appeared but to be alert for it in a future Legislative session. The Department of Justice is  
93 making an effort for states to allow for rebates in real estate. He expressed that the AAR is  
94 opposed to this and hopes that the REC would back them on this position. Ms. Barickman  
95 thanked Mr. Champion for his public comments. There were no others expressing public  
96 comment. The public comment period ended.

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99 **Agenda Item 4 – Old Business**

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101 **4 (a) Report to REC from Committee on Teams**

102  
103 Ms. McConnochie addressed the REC about information she and Mr. Pruhs put together.  
104 She provided hand-outs from other states that regulate teams, the committee looked at  
105 CA, CO, ID, KS, NE, OR and WA. She emphasized that these states have  
106 regulations/rules that are put in place and it's not about the form.

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4 (b) Update on REC Consumer Disclosure-revision

Ms. McConnochie reviewed drafts for the disclosure including property management and sales. She suggested listing all teams on a separate form. Font size, clear advertising is recommended. Broker information and who is on which team. Every team member would have the same relationship so there is no question who they represent. Mr. Pruhs stated there are two segments: Disclosure to public and operation of how a team will operate within the brokerage itself. Ms. Burke indicated that the ID form has sufficient and valuable language on their disclosure particularly on bottom left side – can we get this emphasis on our forms? The language reads: *“The above customer or Client duties are required by law, and a licensee cannot agree with you to modify or eliminate any of them.”* Ms. McConnochie stated that ID and CO forms are very simple to read and consumer friendly. Ms. Barickman recommended that an extra column be added to form for a date in case that relationship ever changed. She also expressed concern about the regulation project and what the status is on that regarding the definition of team and the Broker’s written policy on team supervision. Ms. Harris told the REC this is with the Regulation Specialist, Jun Maiquis. Ms. Walsh will email him and get an update on the project. Ms. Barickman asked Mr. Pruhs and Ms. McConnochie if they were going to put something together to get it to Sharon and Nancy to send out to local Realtor boards and other licensees who have teams.

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

**RESOLVED to continue with the presentation of forms on teams and we put together a document for review by REC that will deal with new forms and other areas we might want to make some changes and put out through REC List Serv and all MLS’s in the state and the AK Association of Realtors.**

**All in favor; Motion passed.**

4 (c) Proposed regulation project 12 AAC 64.180(a)

REC reviews proposed regulation project 12 AAC 64.180(a) and email from Dept of Law AAG Milks. Mr. Mickel asked if Ms. Milkes received his email that he sent to Ms. Walsh regarding trust accounts for real estate brokers. Ms. Walsh stated she would send it to Ms. Milkes for her review and input.

Agenda Item 5 – New Business

5 (d) Sandra Harp License Reinstatement

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

**RESOLVED to move into Executive Session in accordance with 44.62.310.**

Mr. Bushnell withdraws his motion to go into Executive Session.

160 Ms. Barickman has Ms. Harp address the REC and she clarifies the bank account name  
161 on the reinstatement application paperwork. No further questions were asked by the REC.

162  
163 **On a motion duly made by Mr. Bushnell seconded by Ms. McConnochie, it**  
164 **was,**

165  
166 **RESOLVED to move into Executive Session in accordance with**  
167 **44.62.310 to address the application for reinstatement.**

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170 **All in favor; Motion passed**

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172 Move into Executive Session at 9:59 a.m.

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

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176 **RESOLVED to move out of Executive Session.**

177  
178 **All in favor; Motion passed.**

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180 Move out of Executive Session at 10:03 a.m.

181  
182 **On a motion duly made by Mr. Bushnell seconded by Mr. Mickel, it was,**

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184 **RESOLVED to instruct staff to reinstate Broker license RECB16109,**  
185 **Sandra Harp in matter of case #2013-001352**

186  
187 **All in favor; Motion passed**

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190 5(b) Update on HB279

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192 Ms. McConnochie stated that we previously discussed this issue and were updated by Mr.  
193 Champion this morning. Ms. Barickman asked REC if anyone needed additional  
194 information on that agenda item-the members did not indicate they wanted to discuss the  
195 matter any further.

196  
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198 5 (c) Update on 2018-2020 License Renewal

199 Ms. Walsh discussed the renewal of licenses for the month of January. She stated it was  
200 extremely labor intensive for Ms. Harris and her to process this renewal. This was due to  
201 the added data entry for verifying each licensee provided proof of errors and omissions  
202 insurance and entering any change of address from the licensee. Ms. Walsh informed the  
203 REC of the initial difficulty with E & O insurance forms and insurance brokers refusing to  
204 sign the REC E & O insurance equivalent coverage forms. We had to remove them from  
205 the web site and accept the Certificate of Liability form (Acord 25). She advised the REC  
206 that they will need to consider possible regulation changes. Ms. Walsh stated she had a  
207 discussion yesterday with a new (3 days on the job) Assistant AG from Dept. of Law, Rob  
208 Schmidt, who will join us shortly for a discussion on E & O regulations. She suggested that  
209 the REC consider doing an audit of E & O insurance. This sample size would exclude  
210 those licensees who obtained E & O insurance through the REC master policy. This would  
211 be similar in process to the Continuing Education audit. The last issue was the fact that

212 one form was used this renewal for all three license types. In the past, each license type  
213 completed the appropriate license renewal application. Salespersons were thinking they  
214 needed to answer questions that were relevant to Brokers. The other issue for licensees  
215 was the matter of obtaining a business license. They thought they couldn't continue with  
216 the online renewal process until they obtained a business license. Ms. Walsh reported that  
217 she and Ms. Harris fielded a lot of phone calls on that issue as well.  
218

219 **5 (a) Update/Clarification needed on E & O regulations**

220 Assistant Attorney General Rob Schmidt introduced himself to the REC and let them know  
221 he was just recently hired by the Dept. of Law. He was asked yesterday, by Ms. Walsh to  
222 take a look at the regulations for E & O insurance and provide some feedback to the REC  
223 at today's meeting. He pointed out a few changes that they may want to consider clarifying  
224 for 12 AAC 02.530. He offered some potential language the REC may want to consider,  
225 the current language states "The insurance must meet the minimum coverage standards  
226 of 12 AAC 02.510 except that...

227 *Potential language could be: The insurance must meet the minimum coverage standards*  
228 *of 12 AAC 02.510(a)(1), (a)(2), (a)(3), (b), (c)(1), and (c)(5), except that...*

229 And in the Definitions section of 12 AAC 02.590(3), under "equivalent coverage"  
230 means...conditions set out in 12 AAC 05.530. And strike from the current language  
231 conditions as set out in 12AAC 02.510-12 AAC 02.590.

232 AAG Schmidt stated that the change to 02.530 would be more specific instead of so  
233 general. And that 02.530 should point back to 02.510 and comply with these sections  
234 specifically. Ms. McConnochie and Mr. Mickel liked the suggested changes to the current  
235 language. Ms. Burke wanted the record to reflect that she was not contacted or talked to  
236 AAG Schmidt. Ms. Burke stated that the AAG office needs hear the whole story and  
237 provided the whole package of what they can and cannot do. Mr. Bushnell suggested that  
238 the REC draft the language and then submit to the Regulation Specialist for drafting.  
239

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

241  
242 **RESOLVED that the REC put together draft regulation language based**  
243 **on Rob Schmidt's presentation today for review by the REC and then**  
244 **submitted to the Regulation Specialist in Juneau to write-up.**  
245

246 A friendly amendment was offered by Mr. Pruhs and accepted by Ms. McConnochie that  
247 Ms. Burke be included in this.

248  
249 **All in favor; Motion and amendment passed.**  
250

251 Mr. Mickel asked Ms. Burke if she would look at this and if she had suggested changes for  
252 AAG Schmidt she would convey them. Ms. Burke said she could do this review in an  
253 afternoon and asked for his phone number so she could tell him why we are doing  
254 something. AAG Schmidt just started work so did not have a phone number to provide.  
255 Ms. Burke provided her email to AAG Schmidt.  
256

257 Commission takes a 5 minute break.  
258

259 **5 (e) Absent Licensees**

260 REC members review an email from Broker, Elizabeth Schok in Fairbanks. She expressed  
261 her concern over licensees who operate in AK but don't reside in the state. She indicated  
262 that there is concern on her part when the seller hadn't even seen the Consumer  
263 Disclosure and didn't know the name of the licensee. And the other concern was the entry-

264 only licensee who does not represent a seller-who do they put as the listing licensee or is  
265 it just an FSBO an unrepresented party?  
266 The REC discussed the matter addressed in the email. Mr. Mickel, Bushnell and Ms.  
267 McConnochie were of the mindset that this is a broker/ business practice that is allowed.  
268 Ms. McConnochie stated that if a licensee is not following the rules then they need to file a  
269 complaint with the REC. Ms. Barickman stated that Ms. Walsh should ask ARELLO what  
270 practices take place in other states/jurisdictions. Mr. Bushnell stated that the only part of  
271 the transaction that we can create an issue with is, at what point do they complete the  
272 consumer disclosure? Ms. McConnochie stated we are not a police state and cannot go  
273 after licensees without a complaint.  
274  
275

276 **Agenda Item 8 – Executive Administrator’s Report**

277 **Licensing statistics – 8(a)**

278 Ms. Walsh presented the licensing statistics to the Commission for March 2018. There are  
279 currently 2486 total active licensees and 2510 total licensees with a 01/31/2020 expiration  
280 date. Two(2) new real estate offices opened and 87 licensees transferred; 66 new licenses  
281 were issued, 102 had an Inactive status; 2 lapsed due to non-compliance of post-licensing  
282 education. 61 had completed PLE; 539 lapsed (some chose not to renew); 1 upgrade from  
283 a Salesperson to an Associate Broker; there were 2 salespersons who were licensed by  
284 endorsement. Ms. McConnochie asked how many did not renew because of the E & O  
285 insurance requirement. Ms. Walsh stated they didn’t have a way to track this but that there  
286 was an 11% decrease in license renewal. There was a large number of licensees who had  
287 to reinstate because, for whatever reason, did not renew by January 31<sup>st</sup>. Some licensees  
288 indicated that they were retiring and allowed their licenses to intentionally lapse.  
289  
290

291 **Convene for lunch at 12:30 p.m.**

292 **Reconvene after lunch at 1:00 p.m.**

293  
294

295 **Agenda Item 7 – Education Report**

296 **Education Statistics – 7(a)**

297 Ms. Harris presented the education statistics, as of March 6, 2018, to the Commission.  
298 She said there are currently 4 prelicensing courses, 2 broker upgrade courses, 181  
299 elective continuing education courses, 8 designated continuing education courses, 43 post  
300 licensing education courses, 116 permanent instructors. 1 new instructor out of Chicago.  
301 Mr. Bushnell told the REC of his experience in obtaining a correspondence course. He  
302 was surprised that it came with a test and the answers to that test. He said it took him a  
303 matter of minutes to complete the one-hour class. Ms. Barickman thought that the statute  
304 addresses this issue. Ms. Harris stated it does not and that the issue has come up in the  
305 past. Regulation only requires that you have to provide a test or an activity/project if you  
306 give a correspondence course. Ms. McConnochie wanted to see this issue on the next  
307 REC agenda. She indicated that we may have to appoint a task force to write some  
308 specific points to the regulations to ensure answers are given to students “after” the test.  
309 Ms. Barickman suggested that Ms. Harris be given the opportunity to see what information  
310 the instructor provided for the correspondence course.  
311  
312

313 **On a motion duly made by Ms. Burke seconded by Ms. McConnochie, it was,**  
314

315                   **RESOLVED to have staff prepare a letter to all certified**  
316                   **instructors/sponsors in AK stating that is implicit and a fact that it is a**  
317                   **test and that the answers should not be provided to the**  
318                   **licensee/student until after the test is graded.**  
319

320                   **All in favor; Motion passed**  
321

322  
323                   **Agenda Item 6 – Division Update**  
324                   **REC Financial Report (2 Qtr) – 6(a)**  
325

326 Sara Chambers, Deputy Director of CBPL, presented to the Commission the Division's  
327 REC revenue and expenditure report for the 2<sup>nd</sup> quarter, through 12/31/2017. Personal  
328 Services in 2<sup>nd</sup> quarter are estimated because of changes in systems going from AKSAS  
329 to the new IRIS database. This number will be "trued-up" in the 4th quarter report.  
330 Contractual is low, not a lot of Dept of Law charges. Indirect expenses are estimated until  
331 end of the year-it's a "placeholder" until actuals are determined. Total expenses are  
332 \$202,506 - which is less than the prior year. The deficit is just under \$20,000 but renewal  
333 revenue isn't accounted for in this report. The ending balance for this report is \$504,093.  
334 Ms. McConnochie asked if there were REC spending increases in certain areas. Ms.  
335 Chambers stated the REC has done a fantastic job of being financially responsible over  
336 the years. Ms. Barickman thanked Ms. Chambers for the report.  
337

338 Ms. McConnochie asked about the Train the Trainer contract. Staff indicated that a motion  
339 was needed to allow for a sole source contract to be executed for a Train the Trainer  
340 workshop in August.  
341

342                   **On a motion duly made by Ms. McConnochie seconded by Mr. Pruhs, it was,**  
343

344                   **RESOLVED to have a sole-source contract to go out to Len Elder,**  
345                   **DREI, JD for no more than \$5,000, to come out of the Recovery Fund,**  
346                   **for the purposes of holding a Train the Trainer Workshop for those**  
347                   **who are educators or who plan to be educators in Alaska.**  
348                   **(To be held August 16, 2018)**  
349

350                   **All in favor; Motion passed**  
351

352 Ms. McConnochie stated that she would like to see that correspondence education be on  
353 the June agenda.  
354

355  
356                   **Agenda Item 9 – Investigative Report**  
357                   **Statistical Report – 9(a)**

358 Investigator Doug Fell provided the Commission with investigation statistics from  
359 November 16, 2017 through March 2, 2018 this includes cases, complaints, and intake  
360 matters. Since the last report there have been 19 matters opened, 17 closed with 15 of  
361 those being intake matters, 17 matters remain on-going and under investigation.  
362 Ms. McConnochie asked about the cases that are dated from 2015 and if they will be done  
363 soon. Mr. Fell indicated that his fingers are crossed and that they will be able to reach  
364 some sort of agreement.  
365 Mr. Fell asked that the REC reviewing members act quickly so that they are not lingering.  
366 He mentioned that a 30-day review is too long. Ms. Barickman commented that the

367 Legislative Audit pointed to the length of time in the Investigations unit was problematic  
368 and needs improvement.  
369

370 Probation Report – 9(b)

371 Karina Medina presented the Probation report. Ms. Medina indicated that everyone on  
372 probation has been in compliance with their reporting requirements. Ms. Medina indicated  
373 that Jeffrey McGrath has yet to affiliate with a Broker so his lapsed status will continue and  
374 when he does affiliate he will start his probation status.  
375

376 The REC had no further questions for Mr. Fell or Ms. Medina.  
377

378 Ms. Barickman asked Mr. Champion about the woman that was sitting next to him today.  
379 What did she say as she left the room upset? Mr. Champion stated that she wanted to  
380 address the REC about HB279-he told the members she was opposed to this legislation to  
381 extend the REC until 2026.  
382

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

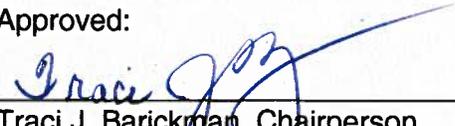
384 **RESOLVED to adjourn the meeting.**  
385

386 **All in favor. Motion passed.**  
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391 Meeting adjourned at 1:15 p.m. The next meeting will be held June 20, 2018 in  
392 Anchorage.  
393  
394

395 Prepared and submitted by:  
396 Real Estate Commission Staff  
397

398 Approved:

399   
400 \_\_\_\_\_  
401 Traci J. Barickman, Chairperson  
402 Alaska Real Estate Commission  
403

404 Date: 6/29/18