

**Real Estate Commission
Property Management
Committee Meeting**

April 22, 2021

**Atwood Building
550 W. 7th Avenue,
Suite 1550
(ZOOM ONLY)**

Anchorage

Call to Order

Approval of Agenda

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

REAL ESTATE COMMISSION
Property Management Committee
Meeting Agenda

April 22, 2021

Atwood Building
550 W. 7th Ave. Ste. 1550 (ZOOM ONLY)
Anchorage, AK

Email realestatecommission@alaska.gov for ZOOM information

Thursday, April 22, 2021

12:00 p.m.

- | | |
|------------------------------------------------------------------------------------------|---------|
| 1. Call to Order | Taggart |
| 2. Introduction of New Commission Member Appointed as Committee Liaison | Heaton |
| 3. Approval of Agenda | Taggart |
| 4. Approval of January 21, 2021 Meeting Minutes | |
| 5. Public Comment | |
| 6. Summary of Mission Statement | |
| 7. Review/Approve “2021 Mission Statement & Priorities” Memorandum | |
| 8. Review/Approve “Security Deposit/Dues Deposits/Pre-Paid Rents/Reserves” Best Practice | |
| 9. Brainstorm Ideas for Property Management FAQs | |
| 10. Next Meeting Dates | |
| - October 21, 2021 | |
| - January 20, 2022 | |
| 11. Adjourn | |

Property Management Regulations
12 AAC 64.550, 12 AAC 64.560, 12 AAC 64.570

Meeting Minutes

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 Property Management Committee
7 MEETING MINUTES
8

9 January 21, 2021
10

11 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a
12 scheduled teleconference meeting of the Real Estate Commission Property Management
13 Committee was held January 21, 2021, at the State of Alaska Atwood Building, 550 W. 7th
14 Avenue, Suite 1550, Anchorage, Alaska.
15

16 **Thursday, January 21, 2021**

17 **Agenda Item 1 – Call to Order**

18 Chair, Cassandra Taggart, called the meeting to order at 12:02 p.m.
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20

21 **Attendees present via ZOOM:**

22 Cassandra Taggart, Broker, Real Property Management Last Frontier, Anchorage
23 Cheryl Markwood, Commission Member, Broker, Markwood Realty, Fairbanks
24 Toni Brewer, Salesperson, NextHome Arctic Sun, Fairbanks
25 Eric Ritner, Broker, Real Estate Solutions of Alaska, Anchorage
26 Tracy Scott, Associate Broker, Real Estate Solutions of Alaska, Anchorage
27 Laura McMillon, Compliance Administrator, The CE Shop
28 Julie Wrigley, Professor, University of Alaska, Anchorage
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30 **Staff Present:**

31 Shyla Consalo, Executive Administrator
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34 **Agenda Item 2 – Approval of Agenda**

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36 On a motion duly made by, Mr. Ritner, seconded by Ms. Markwood, it was,
37

38 RESOLVED to approve the meeting agenda.
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41 **Agenda Item 3 – Approval of October 29, 2020 Meeting Minutes**

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43 On a motion duly made by, Ms. Markwood, seconded by Ms. Taggart, it was,
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45 RESOLVED to approve the October 29, 2020 meeting minutes as presented.
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48 **Agenda Item 4 – Public Comment**

49 There were no public comments.
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55 **Agenda Item 5 – Summary of Mission Statement & Top 5 Goals**

56 Ms. Taggart stated the mission statement: Licensed property and association managers be well
57 informed, educated, and supportive of real estate needs for Alaskans.
58

59 Ms. Taggart stated the top 5 goals as a summary:

- 60 1. Clarity and best practices on security deposits and management of client accounts.
- 61 2. Advocacy for education of all property and association management.
- 62 3. Audit of Alaska of real estate property management and association regulations to bring
63 up the standards to today's practice. (12 AAC 64.550 - 580).
- 64 4. Research what other states have done in property management and association
65 management, specifically through ARELLO and Florida.
- 66 5. Connecting property and association management resources to the public.
67
68

69 **Agenda Item 6 – Brainstorm Session on Security Deposit/Ernest Money Best Practice**

70 Ms. Taggart explained the Committee is working on the last best practice for Goal #1, which is a
71 best practice in the property management industry around the topic of security deposits, earnest
72 money, and trust accounting. The last time this topic was discussed was a year ago, so she
73 wanted to do an additional brain storming session to see if anyone had any further input,
74 scenarios, or problems to bring forward and incorporate into this next best practice document. Ms.
75 Taggart reviewed two scenarios from the initial brain storming session on this topic, and asked if
76 anyone in the group had anything to add to those. No one had any additional comments.
77

78 Ms. Taggart asked Ms. Markwood if she had any input from the HOA and condo association
79 perspective, since it's a little different. Ms. Markwood explained it's not very well stipulated in the
80 Commission's regulations or standard practices on how HOA and condo association funds are
81 handled, so she's had to set her own standards in her office and with the associations she
82 manages, to ensure association reserves are treated like a security deposit. While they the funds
83 may not be in an official property management trust account, the associations should handle
84 those funds just like a security deposit. When it comes to HOAs and condo associations, this is
85 important because those are liability funds for the associations; they are not assets to the
86 associations because they go back. Another question that's come up quite a bit within the last few
87 months is how to treat pre-paid rents for tenants who are receiving COVID-19 Cares Act funds. Is
88 that pre-paid rent money given to the owners in advance? She's had funding from Native
89 corporations/entities available and, in some cases, they've paid up to six months of rents for the
90 tenants in advance. Are those six months of rents transferred to the owner as soon as they're
91 received, or are they held as a security deposit and then transferred to the owner per month?
92 These have been questions that have come up that licensees just don't know the answer to. So, it
93 might behoove the Committee to consider putting a best practice in place so that can be referred
94 to, because this isn't always taught in classes. Mr. Ritner commented that his company has been
95 sending back funds for accounts that contain a credit of more than three times rent because the
96 law is clear that anything more cannot be held. Mr. Ritner asked how people in the group were
97 handling the rent overpayments. Ms. Taggart stated, in her case, all the accounts had balances of
98 some kind, where the pre-paid amounts didn't go beyond a month or two. Mr. Ritner explained
99 this was happening somewhat frequently with his company in the last couple months, where they
100 were getting large checks and the accounts already had too much credit, so they were sending
101 the money back. Ms. Taggart stated the issue was likely going to get worse before it got better
102 because the new Cares Act funds coming through could potentially pay up to 15 months in pre-
103 paid rent. Mr. Ritner asked if the real estate industry had anyone in the legislature that could push
104 something through to get rid of the rule that licensees/brokerages can't hold more than three
105 times rent. Ms. Taggart stated that topic was still at the House and Senate being debated, and the
106 issue was outside of the scope of the Committee or the Commission; however, the Committee

107 could put recommendations in the best practice document that states pre-paid deposits need to
108 reference the Alaska Landlord Tenant Act for residential situations – reference the code, which is
109 section, and say each broker needs to review and interpret the law, and establish an office policy
110 on how to handle, watch for, and honor the law in those situations. The Committee cannot make
111 rules stating what everyone needs to do. Ms. Taggart agreed this is an issue that legislation is
112 going to have to answer because there are a lot of tenants that are going to be walking into this
113 scenario in the next few months, if they haven't already, because of how much is getting passed
114 out on rent relief and how fast it's being passing it out. Mr. Ritner agreed, and stated this was a
115 unique situation that could cause licensees to either break the law or lose funds, especially with
116 the moratorium being pushed out again. Ms. Brewer added that she deals with a lot of seasonal
117 workers in Fairbanks that like to pre-pay their rents when they have the money because they may
118 not have their job year-round, and sometimes those requests are more than three times rent. So,
119 this is definitely a unique issue in Alaska, even without COVID-19.

120
121 Ms. Taggart moved on from addressing the pre-paid rents issue, and asked if Ms. Markwood
122 could clarify the separation of the different association accounts, and the importance of having a
123 policy on how to keep those accounts separate for those offices managing an HOAs and condo
124 associations. Ms. Markwood explained most associations aren't going to be brokerage accounts –
125 they're the association's accounts that the brokerage manages on behalf of the HOA or condo
126 association. So, it's just a matter of office policy. It is important to ensure the associations clearly
127 understand what best practices are for HOAs and condo associations, and for their bookkeeping.
128 For example, she just took over a condo association that was managed, for a number of years, by
129 an accounting firm. Their capital reserves and homeowner reserves were all one account;
130 however, in their p&l they had the accounts separated, but it was still commingled. It is best
131 practice to have those accounts separate, and have three individual accounts held by the
132 association, so that the owner reserves are in a separate account and not part of the capital
133 account. That way, if the association makes capital reserve expenditures, they're not using any
134 owner reserves. Ms. Markwood thinks that this should be a topic of conversation and put into best
135 practices, because there is very little as far as standards go for HOA and condo association
136 management. Ms. Taggart stated this topic was an interesting challenge since the bank accounts
137 are owned, managed, and regulated by the associations, putting it outside of the authority of the
138 Commission. She stated she would do her best on drafting a best practice for this, but would
139 greatly appreciate Ms. Markwood's input on the draft before it's brought to the Committee for
140 review/approval.

141
142 Ms. Taggart moved on, and asked if there were any examples or scenarios regarding security
143 deposit issues. She explained she had a situation where a property manager allowed the tenant
144 to spend security deposit funds to pay for maintenance the tenant was responsible for, but didn't
145 require the tenant to pay the money back or sign any sort of agreement that showed what
146 happened to the security deposit. This created a conflict between the account and the contract
147 and caused a dispute. Mr. Ritner stated his company does not run into this issue often because of
148 how his operation is set up; however, when this does this come up, his response is
149 simple...security deposit money is security deposit money – it's not money for commissions or
150 anything else.

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Agenda Item 7 – Review/Approve “2020 Review & 2021 Goals” Letter to the Commission

153 Ms. Taggart explained that every year, the Committee is tasked with establishing their mission
154 and goals to the Commission. The Commission also appoints one of the Commission member's
155 as a liaison/representative for the Committee. So, Ms. Taggart drafted a letter to the Commission
156 that outlines what the Committee accomplished in 2020, and some ideas/goals of what the
157 Committee would like to accomplish in 2021. The letter also requests the Commission appoint a
158

159 liaison/representative for 2021, and provide any input on goals for the Committee in 2021. Ms.
160 Taggart asked the group to review the letter, and speak up if they had any thoughts, additions, or
161 corrections that should be made.

162
163 Ms. Markwood thanked Ms. Taggart for all she's done this last year, putting forth some of the
164 goals that were set for property management in 2020. She's done a phenomenal job, and it's
165 been a real pleasure for Ms. Markwood to sit and participate on the Committee. This last year has
166 been invaluable, and she really appreciates all the hard work Ms. Taggart has done. Ms.
167 Markwood thinks the letter looks great, and is glad Ms. Taggart put it together.

168
169 **On a motion duly made by, Mr. Ritner, seconded by Ms. Brewer, it was,**
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171 **RESOLVED to approve the "2020 Review & 2021 Goals" letter to the**
172 **Commission as presented, and submit to the Commission for consideration**
173 **at their March meeting.**

174
175 **All in favor; Motion passed.**

176
177
178 **Agenda Item 8 – Next Meeting Dates**
179 Ms. Taggart stated she worked with staff to determine the next meeting dates for the Committee,
180 asked everyone to pull up their calendars, so they could confirm if those dates would work for
181 them. All members in attendance agreed to the following meeting dates:

- 182 • April 22nd
- 183 • October 21st
- 184 • January 20th (2022)

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187 **Agenda Item 9 – Adjourn**

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189 **On a motion duly made by Mr. Ritner, seconded by Ms. Markwood, it was,**
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191 **RESOLVED to adjourn.**

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193 **Meeting adjourned at 12:36 p.m.**

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197 Prepared and submitted by:
198 Real Estate Commission Staff

199
200 Approved:

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202
203 _____
204 Kasandra Taggart, Chair
205 REC Property Management Committee

206
207 Date: _____

Oral Comments & Public Comments

MEMORANDUM

Date: December 14, 2019
To: Alaska Real Estate Commission
From: Cassandra Taggart, Chair, Property Management Committee
Approved: AREC Approved at 12.19.19 Meeting

At its meeting on December 13, the Property Management Committee came up with the following Mission Statement and prioritized areas to work on in 2020. The Committee asks that the Alaska Real Estate Commission approves the statement and goals and gives the Committee authority to work on these in the coming year.

Mission Statement

Licensed property and association managers be well informed, educated and supportive of real estate needs for Alaskans.

Five listed areas to focus on (prioritized):

1. Clarity and best practices on security deposits and management of client accounts
2. Advocacy for education of all property and association management
3. Audit of Alaska Real Estate Commission property management and association regulations to bring up the standards to today's practice, 12 AAC 64.550, 12 AAC 64.560, 12 AAC 64.570
4. Research what other states have done in the area of property and association management especially through ARELLO and Florida
5. Connecting property and association management resources to the public

ALASKA REAL ESTATE COMMISSION STRATEGIC PLAN 2021

The Commission recognizes we have a very small, yet extremely competent staff for the number of licensees we oversee, and to assist affected consumers. We have every confidence that our Executive Administrator Shyla Consalo, Project Assistant Nancy Harris, and Investigator Autumn Miller, will all support us in reaching our goals.

GUIDING PRINCIPLE	OBJECTIVE - how will we meet this guiding principle?	Who will complete this task?	Status/Notes
Protect the Consumer/Inform Licensees	<p>With agreement of the appropriate departments, upload informational videos done by appropriate personnel on:</p> <ul style="list-style-type: none"> How to file a complaint against a licensee & its process If a complaint is filed against a license what the process is for a license <p>Additionally, provide best practice "white papers" on various topics as approved by the Commission for placement on our website.</p>	Commissioners, Staff & Investigator	Goal to have recorded presentation done & submitted to Chief Investigator for review/approval by the next year's Strategic Planning meeting
Protect the Consumer/Inform Licensees	<p>Provide the Commission for consideration, what they should have jurisdiction over in property management, i.e., financial responsibilities of the property owner or property manager. Then, provide next steps should the Commission agree to move forward with recommendations. Provide a list of property management FAQ's (Frequently Asked Questions) for both licensed property managers & property owners, to be approved by the Commission then placed on our website. To include:</p> <ul style="list-style-type: none"> Best practices for security deposits & earnest money Potential for separate Property Management Consumer Disclosure & Waiver of Right to be Represented form Long-term goal to review the Landlord Tenant Act & look at changes in conjunction with the real estate industry Review and make recommendations to the property management regulations with regard to trust account and security deposit issues 	Property Management Committee of the Commission & Property Management Liaison, Commissioner Heaton	Work in Progress – PM Committee continuing to develop best practices for REC consideration, several already approved & on website
Protect the Consumer/Inform Licensees	<p>Define minimum standards, based on what other jurisdictions have successfully implemented, for team advertising. To include:</p> <ul style="list-style-type: none"> Define requirements to include brokerage information, minimum size, etc. Review, make recommendations if necessary, and provide a draft Disclosure Statement regarding teams Review, make recommendations if necessary, and draft regulation changes 	Commissioners Schok & Heaton to provide information to staff	<p>Previous Commission completed a best practice document already approved & on website</p> <p>*Requires a regulation change</p>
Inform Licensees	<p>Assist staff to clear up the following issues:</p> <ul style="list-style-type: none"> How "inactive status" is logged/started & the notification to the affected licensee. Define & Verify how required education, for those who apply for license by endorsement. Define & Simplify the criteria for getting or upgrading a license. Sharing of Information 	Commissioner Markwood & Staff	
Protect the Consumer/Inform Licensees	<p>Review all regulations & propose one major regulation change (clean up) which will bring regulations into the 21st century.</p>	Commissioners & Staff	Complete – Currently has been reviewed by the regulatory specialist, approved by Commission and is being sent out for public comment
Protect the Consumer	<p>Review & revamp the State of Alaska Residential Real Property Transfer Disclosure Statement.</p>	Commissioner Markwood	<p>Draft form to be discussed at June Meeting & published in the meeting agenda</p> <p>* Requires a Regulation Change</p>
Commission Business/Inform Licensees	<p>Review upcoming licensing renewal cycle fee adjustment, as to conform with the surety fund balance.</p>	Commissioners & Staff	* Requires a Regulation Change
Commission Business/Inform Licensees	<p>Review and make recommendations regarding DCE Education Topics for the next renewal cycle.</p>	Commissioners & Staff	

MEMORANDUM

Date: April 22, 2021
To: Alaska Real Estate Commission
From: Kassandra Taggart, Chair, Property Management Committee
Approved: AREC PM Draft

At its meeting on April 22, 2021, the Property Management Committee came up with prioritized areas to work on in 2021. These priorities were established based on the Alaska Real Estate Commission's 2021 Strategic Plan.

Mission Statement

Licensed property and association managers be well informed, educated, and supportive of real estate needs for Alaskans.

Objectives (approved 12/19/19):

1. Clarity and best practices on security deposits and management of client accounts
2. Advocacy for education of all property and association management
3. Review of Alaska Real Estate Commission property management and association regulations to bring up the standards to today's practice, 12 AAC 64.550, 12 AAC 64.560, 12 AAC 64.570
4. Consistently research what other states have done in the area of property and association management
5. Connecting property and association management resources to the public

2021 Priorities:

1. Develop a best practice document on security and dues deposits
2. Develop a list of property management FAQs for both licensed property managers & property owners
3. Look into developing a separate consumer disclosure & waiver of right to be represented form specific to property management
4. Review & make recommendations to the property management regulations regarding trust account & security deposit issues (long-term goal)
5. Review the Landlord Tenant Act & look at changes in conjunction with the real estate industry (long-term goal)

MEMORANDUM

Date: April 22, 2021
To: Alaska Real Estate Commission
From: Cassandra Taggart, Chair, Property Management Committee
RE: Best Practice – Security Deposits, Dues Deposits, Pre-Paid Rents, and Reserves

The Property Management Committee is requesting the Alaska Real Estate Commission to review and approve the Best Practice – Security Deposits, Dues Deposits, Pre-Paid Rents, and Reserves listed below. Once approved, the Property Management Committee is requesting submitting this best practice document to the ListServ and add this to the Best Practices list on the AREC – Property Management section of the public website.

This best practice document is regarding generally accepted practices in the property management industry around the topic of handling of Security Deposits, Dues Deposits, Pre-Paid Rents, and Reserves for any or all parties involved in property management contracts.

It was determined that many accounting professionals that process paperwork and brokerages have a variety of different ways of processing these funds that can cause confusion on what is typically expected in the transaction when working together in the industry. As a result, it is recommended to document some generally accepted practices to strengthen the defined duties and relationships between licensees and the public.

BEST PRACTICE

Date: April 22,2021

Adopted: (Complete when passed)

Title: Best Practice – Security Deposits, Dues Deposits, Pre-Paid Rents, and Reserves

To: Alaska Real Estate License Practicing Property Management for Commercial, Residential, or Association Management, and Alaska Real Estate Trainers

From: Alaska Real Estate Commission & Property Management Committee

Regulation Reference:

12 AAC 64.117 – Broker’s Written Policy

12 AAC 64.125 – Supervision

12 AAC 64.220 – Record of Trust Account Transactions

12 AAC 64.220(b) To ensure landlord and tenant and/or association and homeowner funds are tracked through a related but separated transaction code and transaction ledger.

12 AAC 64.220(d) A broker shall establish a ledger for every transaction, including those transactions for which the deposit is held in the trust account of a cooperating broker, title company, or another third party.

12 AAC 64.240. Brokers Commission

12 AAC 64.250. Prohibited Trust Account Activity

12 AAC 64.570. Property Management of Real Property

12 AAC 64.570(E) Written documentation to refund a security deposit or deduct money from a security deposit.

12 AA 64.560 Compliance with Uniform Residential Landlord and Tenant Act

Statue Reference:

Sec. 08.88.90 – Exceptions

Sec. 08.88.331 – Making a transaction

Sec. 08.88.341 - Listings or management contracts

Sec. 08.88.351 - Accounts; Records of transaction

Sec. 08.88.361 - When commission is earned

Sec. 08.88.655 - Compensation

Sec. 08.88.405 – Preparation of documents

Sec. 08.88.685. Policies, guidelines, and requirements

Sec. 08.88.615 (3) - Duties owed by licensee in all licensee relationships - presentation

Purpose: To provide guidance to assist any and all parties in property management transactions regarding what is generally accepted practices for handling of these funds.

Disclosure: All parties in a property management transaction should familiarize themselves with the latest Alaska Real Estate Commission Statutes and Regulations prior to taking on any action affecting your or another person's rights or understanding of these best practices document. This publication is not the law.

1. Broker Policy Handbook:

- a. In addition to 12 AAC 64.220, Brokers should define a detailed process that is acceptable for the brokerage on holding and distributing security deposits, dues deposits, pre-paid rents, reserves, and any ebb and flows of funds.
- b. It is recommended to do frequent audits of bank accounts facilitated by the brokerage or third-party consisting of security deposits, dues deposits, pre-paid rents, and reserves to ensure trust account balances are accurate.
- c. Review accounting practices in accordance with 12 AAC 64.220(b) to ensure landlord, tenant and/or association, and homeowner funds are tracked through a related but separated transaction code and transaction ledger.
 - i. *Example: Landlord and tenant can have a transaction code relating to a property, but the transaction ledger for a landlord is separate than the transaction ledger of a tenant, so the funds are not commingled.*
- d. It is highly encouraged to do frequent monthly audits of transaction ledgers for clients, landlords, associations, homeowners, tenants, and the brokerage to ensure funds for specific transaction codes and transaction ledgers are accurate and in the appropriate ledger to avoid commingling of funds between the various transaction ledgers.

- i. Example: Review the tenant transaction codes, transaction ledger, and the funds for the tenant within a separate ledger from funds of the landlord to ensure the ledger is accurate and not commingled.*
 - ii. Example: Review the transaction codes and transaction ledger for a homeowner. Ensure that the funds for the homeowner are in a separate ledger from funds of the association.*
- e. Encourage a policy and review process for the reporting and reconciling of trust accounts, transaction ledgers, and other appropriate accounts that involve security deposits, dues deposits, pre-paid rents, and reserves.
- f. Encourage a clarification on when and how the parties intend to deliver deposits, reserves, and rents from the brokerage to a third-party or client(s).
 - i. Example: If the situation was a property for sale; when and to whom will deposits, reserves, and pre-paid rents be allowed to transfer. A brokerage could enforce that only a title company could receive these funds for processing for the sale.*
 - ii. Example: If the situation was a property transferring to another management company or client, when and to whom will deposits, rents, and reserves be allowed to transfer.*
- g. It is recommended that a tenant's security deposit is held in the brokerage trust account for ease of processing, accounting of the funds, and reconciliation. According to 12 AAC 64.220(d), if funds are held in a landlord's trust account or other account outside of the brokerage, a broker shall establish a ledger for every transaction.
- h. Third-Party ledgers should have a review process in place to ensure it is accounted for and fully transparent to all parties in the transaction, along with routine reconciliations for accuracy and compliance with 12 AAC 64.220.
 - i. Examples of Third-Party ledgers: Landlord's trust accounts holding tenant's security deposits. Association holding dues deposits. Title company holding security deposits during the sale of a property.*
- i. Encourage a brokerage to consider how, when, and to whom to release funds such as security deposits, dues deposits, reserves, pre-paid rents, and/or rents to be remitted/transferred once the services of the management contract ends.
- j. Brokerage should consider a policy on having a detailed and clear transaction ledger for security deposits and security deposit transmittal.
 - i. Example: The security deposit ledger and transmittal, separate charges are to be fully itemized with details rather than a lump sum for all costs.*
- k. Brokerage should consider utilizing ULTA – Alaska Uniform Landlord Tenant Act within their policy and procedures regarding residential lease agreements to ensure proper care of security deposits and pre-paid rents. See ULTA Sec. 34.03.070 and 12 AAC 64.560 as a reference.

2. Processing of Funds

- a. It is a general practice to have dues deposits, reserves, and daily activities acknowledged and separated within the financial documents and/or accounts; however, the association board and/or covenants may have additional guidelines over this matter.
 - i. *Example: A report, like a balance sheet, should acknowledge how much of the total funds are dues deposits, reserves, or daily activities.*
- b. In an association, each homeowner has a transaction code with its own transaction ledger to account for the dues deposits set aside for each homeowner.
- c. If the lease agreement contract states a certain dollar amount for a security deposit, then this exact amount should be held in the trust or appropriate account while also being accounted for within the financials. If the lease agreement contract and transaction ledger are not in alignment, the contract should be adjusted to reflect an appropriate amendment to the lease agreement.
 - i. *Example: The security deposit on the lease agreement contract states \$1,000 but the tenant only paid \$500, the tenant transaction ledger would only reflect \$500. An amendment to the lease agreement is then signed to have both lease contract and transaction ledger in alignment of each other stating the deposit is now \$500.*
- d. Commissions owed will be charged and paid directly from the transaction ledger that belongs to the appropriate client paying for services and be in compliance with 12 AAC 64.240 and 12 AAC 64.250.
 - i. *Example: A licensee assisted in a leasing contract. The licensee should invoice the paying client to render payment for services through the brokerage rather than deducting commissions from deposits, rents, or pre-paid rents held in a separate transaction ledger in a trust account.*
- e. Pre-paid rents should remain in the transaction ledger and be released/transferred once services or charges are rendered.
 - i. *Example: Tenant pays rent for a future month causing the funds to be considered pre-paid. These funds will remain in this transaction code/ledger and transferred to the landlord when it becomes due.*
- f. A tenant's security deposit will remain in the tenant's transaction code/ledger and be released once services/charges are due and can be payable by the security deposit or transferred to a third-party due to an event.
 - i. *Example: A landlord has a bill from a third-party for services that a landlord is obligated to pay. Once paid, the landlord has the option to back bill the charges to the tenant transaction ledger for reimbursement. The tenant can pay this invoice or depending on the lease agreement and/or amendments, the security deposit can render as payment for this charge.*

- ii. *Example: Tenant had a bill and agreed to use the security deposit to pay the bill. An amendment would be completed otherwise the lease will conflict with the ledger.*
- iii. *Example: An event can be a transfer from one management company to another management company, a transfer from management company to a title company for a sale, or a transfer from a management company to a landlord for self-management.*
- iv. *Note: At any point, if it is determined the invoice/charges are only applicable to the landlord and not the tenant, then the charges cannot be paid from the tenant's security deposit and must be reconciled in a reasonable time determined by the Broker in charge.*

3. Definitions

- a. Customer/Client – Included but not limited to the following; a landlord, tenant, entity, vendor, homeowner, government, HOA association/board

Brainstorming Session

Next Meeting Dates

Adjournment