

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 Teleconference**
7 **MEETING MINUTES**
8

9 **May 21, 2020**
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 May 21, 2020, at the State of Alaska Atwood Building, 550 W. 7th Avenue,
14 Suite 1550, Anchorage, Alaska.
15

16 **Thursday, May 21, 2020**

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

18 Chair, Cassandra Taggart called the meeting to order at 12:06 p.m.
19

20 **Roll Call – 1(a)**

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 Margaret Nelson, Commission Member, Broker, Denali Real Estate, Anchorage
25 Sam Goldman, Commission Member, Broker, Alaska Built Real Estate, Wasilla
26 Dawn Houston, Associate Broker, Double Eagle Real Estate & Investments, Wasilla
27 Wayne Nelson, Salesperson, Double Eagle Real Estate & Investments, Wasilla
28 Chavonne Cutright, Associate Broker, Re/Max Dynamic of the Valley, Palmer
29 Gabe Stephan, Broker, Jack White Real Estate, Anchorage
30 Kris Abegg, Broker, Paragon Properties, Anchorage
31 Maude Morse, Alaska Housing Finance Corporation
32 Erik Boltman, Salesperson, Real Property Management Last Frontier, Anchorage
33 Eric Bushnell, Broker, Lee Realty, Wasilla
34

35 **Staff Present:**

36 Shyla Consalo, Executive Administrator
37
38

39 **Agenda Item 2 – Approval of Agenda**
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41 **On a motion duly made by, Ms. Markwood, seconded by Ms. Abegg, it was,**

42 **RESOLVED to approve the meeting agenda.**
43
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45

46 **Agenda Item 3 – Approval of February 20, 2020 Meeting Minutes**

47 Ms. Taggart asked for an amendment regarding a correction to the attendees present.
48

49 **On a motion duly made by, Ms. Markwood, seconded by Ms. Abegg, it was,**

50 **RESOLVED to approve the February 20, 2020 meeting minutes as amended.**
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55 **Agenda Item 4 – Public Comment**

56 There were no public comments.
57
58

59 **Agenda Item 5 – Summary of Mission Statement**

60 Ms. Taggart stated the mission statement.
61

62 Licensed property and association managers be well informed, educated, and supportive of real
63 estate needs for Alaskans.
64
65

66 **Agenda Item 6 – Summary of Top 5 Goals**

67 Ms. Taggart stated the top 5 goals as a summary.
68

- 69 1. Clarity and best practices on security deposits and management of client accounts.
- 70 2. Advocacy for education of all property and association management.
- 71 3. Audit of Alaska of real estate property management and association regulations to bring
72 up the standards to today's practice. (12 AAC 64.550 - 580).
- 73 4. Research what other states have done in property management and association
74 management, specifically through ARELLO and Florida.
- 75 5. Connecting property and association management resources to the public.
76
77

78 **Agenda Item 7 – Housekeeping**

79 Ms. Taggart explained this was just an update to explain what the Committee has done in the
80 past so far.
81

82 **Education Committee & AREC Letter - 7(a)**

83 The Education Committee reached out asking for the Property Management Committee to make
84 suggestions regarding the priorities for classes to consider for the next renewal cycle. This was
85 drafted and approved by the Commission and subsequently passed on to the Education
86 Committee for consideration. The Education Committee did make their decisions on the classes,
87 which were approved by the Commission.
88

89 **Best Practice – Available Education for Property Management - 7(b)**

90 The best practices letter for available education training for property management in general, as
91 well as an update on resources that could be posted to their website was presented to the
92 Commission. The Commission approved both the best practices format and available education
93 training to be posted to the website.
94

95 Ms. Markwood stated she wanted to applaud Ms. Taggart and the Committee for being able to
96 move forward this much in the accomplishment of the Committee's goals. She stated it's not often
97 committees are formed and are successful in accomplishing their goals. She thanked everyone
98 for a job well done. Ms. Taggart agreed with Ms. Markwood, stating the gathering of the resources
99 was a collective effort. Ms. Taggart further clarified Ms. Consalo was actively working on getting
100 the information posted to the website; however, COVID took place first, so it may take some time
101 before the information is available on the website. Ms. Taggart stated that once the information is
102 posted, it will be put on the next agenda to inform everyone.
103
104
105
106

107 **Agenda Item 8 – Review Goal #1 – Best Practice - Accounting**

108 Goal #1 is to create clarity and best practices on security deposits and management of client
109 accounts.

110
111 Ms. Taggart stated that when she gathered all the notes she had from everyone, she ran into a
112 problem with trying to create a best practice template, and decided to break the information down
113 even further. Ms. Taggart requested everyone's input before she moves forward with this format.
114

115 Ms. Taggart stated there's different parts to accounting - there's reporting, contracts &
116 disclosures, and security deposits with commercial and residential rentals. Ms. Taggart asked the
117 group if they were okay with splitting this goal into three best practices instead of one large best
118 practice, that way the information could be presented in a more comprehensive way. The best
119 practices would be broken out into the following categories: Best Practices for Accounting
120 Reporting; Best Practices for Contracts & Disclosures; and Best Practices for Security Deposits,
121 Dues Deposits, and Trust Monies. Everyone was in agreeance to have these best practices
122 broken out into three separate categories. Ms. Nelson stated it was a great idea to split the best
123 practices up into smaller categories, as it would provide more clarity and understanding.
124

125 Ms. Taggart started discussion on the best practice draft she created regarding accounting
126 reporting. At the moment, Ms. Taggart has been documenting different statutes and regulations
127 that could be used for supporting property management reporting requirements. Ms. Taggart
128 further clarified that these best practices should not be construed as requirements, but rather
129 what is commonly done and expected in the industry as a best practice. There needs to be clarity
130 in not being so exact that it only works for one management company and not others. There also
131 needs to be a balance in the language to assist those who are new to the property management
132 industry, and those who have been in the industry for a while.
133

134 Ms. Taggart went through and explained each element of the draft best practice for accounting
135 reporting, starting with the Broker Policy Handbook section. She explained this handbook should
136 encourage a policy on what, how, and when, a property manager will provide property and
137 financial data to the broker for review and record keeping. Ms. Cutright stated she appreciates
138 what is happening with this Committee, and expressed that there needs to be clarity between
139 what a leasing agent is required to report to their broker, and a property manager who is an
140 independent contractor licensed salesperson. Ms. Cutright further explained a leasing agent is an
141 employee of the broker and is not subject to receiving 1099 reports, so there's no clarity between
142 whether a property manager is an employee or if they're a leasing agent because everything is
143 blurred together. Ms. Taggart stated this has not been reviewed from a 1099 vs. W-2 employee
144 perspective when looking at the reporting section of the broker's policy. Ms. Taggart agreed it was
145 a good idea, and she would make a note to look at that embrace that concept within the verbiage.
146 Ms. Nelson commented that it is important to note that while someone may be an employee, the
147 broker still has supervision responsibilities. Ms. Nelson was unsure why there would be a
148 distinction between just a leasing agent and a property manager. Ms. Nelson agreed it was a
149 great question and that the Committee should look at that issue. Mr. Stephan commented that all
150 licensees are required to provide all documents to the broker, and brokers are required to have a
151 complete file as well as account for all monies. Mr. Stephan was unsure why there would be any
152 distinction between someone that is treated as a W-2 employee verses a 1099 employee. Ms.
153 Cutright clarified that her emphasis was on the instances where a required policy for property
154 managers and leasing agents - is it going to be lumped all into one? Is it a policy rewrite for the
155 individual licensees or is it a broker required policy? Ms. Taggart commented that brokers should
156 have their own policy per regulations, and independently contracted licensees should also have
157 their own rules to abide by. Ms. Taggart agreed there should be some clarity provided regarding
158 this topic to avoid accidental violations on both federal and state levels.

159 Ms. Taggart moved forward in explaining the Management Contract section. Ms. Taggart
160 explained the management contract should encourage the following items:
161 a. Clarification on what financial duties will or will not be performed by the Property
162 Manager and/or Broker regarding income and/or expenses related to the real property.;
163 b. Clarification on who the responsible party is for remitting of funds for certain operational
164 expenses;
165 c. Disclosure at termination of management contract a “no later than” date on when the
166 customer will be receiving applicable financial and contract documents;
167 d. All monies collected as a form of management commission(s);
168 e. Clarification on what third party management duties will or will not be performed by the
169 Property Manager and/or Broker regarding income and/or expenses related to the real
170 property; and
171 f. Clarification on maintenance duties will or will not be performed by the Property
172 Manager and/or Broker regarding income and/or expenses related to the real property.
173

174 Mr. Goldman commented that item “c” has been a large challenge in the acquiring from other
175 folks of business, where they are not given anything at all. The owners are being told that they’ll
176 “get it when they get it”, and they’re being locked out of accounts unless they’ve given notice that
177 they aren’t using another property manager. One of the challenges he’s had is tenant information
178 is not being shared with the owner or the property management company, which has caused
179 issues in being able to send information to collections agencies. Ms. Taggart stated this was an
180 interesting debate because the federal Privacy Act that sits on the industry, and those laws
181 cannot be superseded. There are also some jurisdictional issues that arise, as the Commission
182 does not have jurisdiction over contractual matters or the exchange of information. Ms. Taggart
183 stated it was a good topic to discuss to see if clarity could be obtained by discussing what other
184 agencies are doing to get around this hurdle. Back and forth discussion was exchanged on this
185 issue. Ms. Taggart stated the Committee could encourage brokers to have a policy in place to
186 address the concern and come up with a solution that works best for their practice.
187

188 Ms. Nelson commented that it is incumbent upon them to look out for the consumer, and what the
189 Committee is trying to accomplish is best practices, so a best practice would be to ensure that all
190 pertinent records be transferred. Ms. Nelson was unsure if that was something that could be put
191 into the best practices document. Mr. Goldman stated he thinks it needs to be very well spelled
192 out because there are consumers being negatively affected by the actions or inactions of
193 licensees in the industry. Ms. Taggart thanked everyone for their comments.
194

195 Ms. Nelson asked if the Committee should consider a lease template as a foundation for
196 licensees to build on. Ms. Taggart stated this topic has been debated by the Department of Law,
197 and they have shied away from doing this. Ms. Taggart is unaware of the specifics as to why it’s
198 not been done; however, she stated she could find out if that was something the Committee
199 requested. Ms. Abegg stated it would be interesting to know how many states have a standard
200 template for a lease contract. Ms. Taggart stated she wasn’t sure if that was information she could
201 obtain, as that is not something that is tracked by ARELLO. Ms. Taggart also stated she’s
202 searched a couple of states, and she hasn’t seen a template provided. Mr. Goldman agreed that
203 having a basic template would be beneficial. Ms. Markwood stated that IREM is a good resource
204 for property management information, and they provide lease templates and property
205 management templates. Ms. Markwood used IREM’s resources to establish her office when she
206 transferred from another brokerage.
207

208 Ms. Taggart moved forward in explaining the Types of Reports/Data section.
209 a. The intent is to define the information to be shared, not necessarily the name of the
210 report;

- 211 b. Balance Sheet;
- 212 c. Income/Expense Sheet; and
- 213 d. Unoccupied/Occupied Data – Commonly known as Rent Roll or Homeowner Directory.
- 214

215 Ms. Taggart mentioned there was a small mix-up in the order of her documents, and clarified the
216 Management Contract section they discussed was under the Contracts & Disclosures portion of
217 the best practices. Ms. Taggart proceeded to moved forward in explaining the Management
218 Contract Section of the best practices for Accounting Reporting. Ms. Taggart explained the
219 management contract should encourage the following items:

- 220 a. Clarification on how often to report financial data;
- 221 b. Clarification on how the parties intend to deliver the designated financial data to the
- 222 customer(s);
- 223 c. clarification on what the Broker and/or Property Manager intends to report to the
- 224 customer(s);
- 225 d. clarification on what financial data will or will not be provided by the Property Manager
- 226 and/or Broker regarding income and/or expenses related to the real property;
- 227 e. Data to be provided at termination of management contract; and
- 228 f. Data to be released/provided at termination of a lease contract.
- 229

230 Ms. Taggart moved forward in explaining what she currently has documented to look into
231 regarding the Best Practices for Security Deposits:

- 232 a. Licensees applying commissions to security deposits on commercial deals;
- 233 b. Licensee paying commissions from security deposits to zero out the landlord's balance
- 234 with the company;
- 235 c. Landlords keeping the security deposits rather than the broker;
- 236 d. Defining how funds should be distributed at the time of termination;
- 237 e. Trust accounts to be submitted for broker review;
- 238 f. Brokers being signers for trust accounts that the landlords are holding; and
- 239 g. Leases should match what's in the trust account.
- 240

241 Mr. Goldman commented that security deposits on transfer of sale should be added to the list.
242 Ms. Taggart stated she wanted to open it up to the group to see what everyone's preference is
243 regarding this issue. Mr. Goldman stated that sometimes this issue is heavily dependent on the
244 mortgage company that finances the sale, but there should be a best practice for when and how
245 checks should be disbursed.

246 **Agenda Item 9 – Review Goal #4 – Comparing States**

247 Goal #4 is to research what other states have done in Property Management and Association
248 Management, specifically through ARELLO and Florida.

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250
251 Ms. Taggart stated there are still some states that have no regulation over property managers and
252 do not require them to have a license; some states require property managers to go through
253 additional training; and some states have trust account auditing.

254
255 Mr. Goldman commented it appeared Alaska was one of lower education states. Ms. Taggart
256 stated Alaska is towards the bottom on credit hours, but was not at the bottom. Ms. Taggart
257 explained that any time the Commission has tried to vote for additional education hours, it has
258 created issues that have prevented them from being able to implement additional education
259 requirements. Ms. Taggart proceeded to go through the national statistics. The average required
260 education hours for a license is 77 hours; 45 states require a real estate license to do property
261 management; eight (8) states require a specific property management license; nine (9) states

262 have additional mandates regarding HOA management. Even across other states, the regulation
263 oversight of property management is not as strong as a conversation.
264

265
266

Agenda Item 10 – REC Request

267 The Commission asked the Property Management Committee to solve a couple of issues for
268 them:
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270
271

Consideration of Jurisdiction - 10(a)

271 Provide the Commission for consideration, what they should have jurisdiction over in property
272 management; i.e. financial responsibilities of the property owner or property manager. Then,
273 provide next steps should the Commission agree to move forward with recommendations.
274

275

275 Ms. Taggart stated there are a lot of questions and concerns about this. Ms. Taggart stated that in
276 the past when the Commission has tried to add credits for those who want an endorsement in
277 property management, it has been rejected by the public. There were issues with restriction of
278 trade. There were also conversations about adding an acronym to show having completed
279 property management specific training; however, that doesn't give jurisdiction, it just volunteers
280 credentials to be posted on the website. There's also been conversations that the Commission
281 does not have a financial auditor. There is the potential to make adjustments to have a financial
282 auditor, who would obtain permission to conduct routine audits on property management. Ms.
283 Taggart requested input from the group on this topic. There were no comments, so Ms. Taggart
284 explained it was her understanding that due to several recent events, it's been realized that
285 there's a gap in how property management is overseen in respect to what the Commission can
286 and cannot do. As far as the regulations, the Commission does have clear jurisdiction over trust
287 accounts; however, outside of that, it's pretty restrictive and most things have to be dealt with in
288 civil court. Basically, the Commission would like input on if there should be more or less oversight
289 by the Commission within the property management industry. Ms. Markwood commented that Ms.
290 Taggart's re-cap on the Commission's request was correct, and the biggest dilemma was if the
291 Commission was jurisdictional.
292

293

293 Ms. Consalo commented that the Commission does have some jurisdiction outside of just the
294 trust account aspect, and that is within the licensee relationship section; however, the jurisdiction
295 only applies to if those obligations are not being met with their clients. The area that is not
296 jurisdictional, and is often where a lot of complaints originate, is when the tenants have
297 complaints against the property managers which falls into the Landlord/Tenant Act statutes.
298

299

299 Ms. Taggart recommended the Committee go back to the Commission to request additional clarity
300 on jurisdictional thoughts, so something can be built that the group can have an opinion on. Mr.
301 Goldman asked if there's been any discussion in expanding the property management regulations
302 to be more definitive than they currently are. Ms. Taggart stated this was something that would be
303 good to discuss when the Committee gets into working on Goal #3.
304

305

Property Management FAQ for Managers and Landlords - 10(b)

306 Provide a list of property management FAQs for both licensed property managers and property
307 owners, to be approved by the Commission then placed on the Commission website.
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309

309 Ms. Taggart stated this item would be simple for the Committee to put together.
310

311

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314 **Agenda Item 11 – Next Meeting Dates**

315 Ms. Taggart proposed the following dates for the next three meetings: August 20, 2020;
316 October 29, 2020; and January 21, 2021.

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318 **On a motion duly made by Ms. Markwood, seconded by Mr. Goldman, it was,**
319
320 **RESOLVED to approve the meeting dates.**

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323 **Agenda Item 12 – Adjourn**

324
325 **On a motion duly made by Mr. Goldman, seconded by Ms. Markwood, it was,**
326
327 **RESOLVED to adjourn.**

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329
330 **Meeting adjourned at 1:36 p.m.**

331
332 Prepared and submitted by:
333 Real Estate Commission Staff

334
335 Approved:
336
337 *Kassandra Taggart*
338 _____
339 Kasandra Taggart, Chair
340 REC Property Management Committee

341 Date: 08/20/20
342