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2 STATE OF ALASKA
3 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
4 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
5

6 REAL ESTATE COMMISSION
7 MEETING MINUTES
8

9 September 23, 2020
10

11 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article
12 6, a scheduled meeting of the Real Estate Commission was held September 23, 2020, at
13 the State of Alaska Atwood Building, 550 W. 7th Avenue, Suite 1550, via Zoom,
14 Anchorage, Alaska.
15

16
17 **Wednesday, September 23, 2020**

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

19 Chairperson PeggyAnn McConnochie called the meeting to order at 9:10 a.m., at which
20 time a quorum was established.
21

22 Roll Call – 1(a)

23 Members Present via Zoom

24 PeggyAnn McConnochie, Broker, 1st Judicial District, Chairperson
25 Margaret Nelson, Broker, Broker at Large, Vice Chairperson
26 David Pruhs, Broker, 4th Judicial District
27 Cheryl Markwood, Broker, Broker at Large
28

29 Excused Absent:

30 Samuel Goldman, Broker, 3rd Judicial District
31 Jaime Matthews, Public Member
32 Jesse Sumner, Public Member
33

34 Staff Present:

35 Shyla Consalo, Executive Administrator
36 Nancy Harris, Project Assistant
37

38 Staff Present via Zoom:

39 Autumn Roark, REC Investigator
40 Ryan Gill, Investigator – REC Probation Monitor
41 Amber Whaley, Senior Investigator
42 Marilyn Zimmerman, Paralegal
43

44 Guests Present via Zoom:

45 Errol Champion, Broker, Coldwell Banker Race Realty, Juneau
46 Cassandra Taggart, Broker, Real Property Management Last Frontier, Anchorage
47 Renae Miller, Broker, MARC Realty, Anchorage
48 Timothy Vereide, Associate Broker, Jack White Real Estate, Wasilla
49 Kristi Mock, Associate Broker, Keller Williams Realty Alaska – The Kristin Cole Team
50 Laura McMillon, Compliance Administrator, The CE Shop
51 Sue Brogan, Chief Operating Officer, United Way of Anchorage
52 Julie Burns, Public Member
53

54 Approval of Agenda – 1(b)

55 Commission Members reviewed the meeting agenda.

56
57 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

58
59 **RESOLVED to approve the meeting agenda for September 23, 2020, as**
60 **amended.**

61
62 Ms. Consalo asked for an additional item to be added to the agenda. Additional
63 investigative matter, case #2020-000783 was added to agenda item 4(d).

64
65 **All in favor; Motion passed.**

66
67 Statements of Conflicts of Interest – 1(c)

68 There were no conflicts of interests.

69
70
71 **Agenda Item 2 – Public Comments**

72 Errol Champion, Broker with Coldwell Banker Race Realty, gave public comment on a
73 couple of topics. Mr. Champion wanted to remind everyone that next week is the annual
74 statewide convention for Alaska Realtors – it will be a Zoom conference, Wednesday
75 through Saturday. Another item that has come up is the city & borough of Juneau's legal
76 departments have drafted an ordinance that will authorize the city to acquire the collection
77 of transaction prices. This is the first time this request has ever been undertaken in Alaska.
78 The latest opinion from legislative legal is that home rule cities probably have the right or
79 authority to do this. Alaska Realtors and most of in this business have resisted such
80 legislation, and Alaska remains one of 11 states that does not allow for the disclosure of
81 transaction prices. The main reason surrounding the deep concern about this is once
82 transaction prices are known, that's the first step toward tracking transaction fees,
83 implementing a sales tax, or some other form of a revenue source. Mr. Champion stated
84 he's not seen the draft ordinance, but there will be several hearings on it. Be assured that
85 Alaska Realtors is going to express their misgivings about such an effort, but the
86 Commission should be aware that the city of Juneau is attempting to do this.

87
88 Ms. McConnochie thanked Mr. Champion for bringing the information to the Commission's
89 attention and asked if there were any more public comments. No one came forward and
90 the public comment period was closed.

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92
93 **Agenda Item 3 - Approval of Meeting Minutes**

94 June 17, 2020 Meeting Minutes – 3(a)

95
96 **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

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98 **RESOLVED to approve the June 17, 2020 meeting minutes.**

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

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104 **Agenda Item 5 – Committee Reports**

105 Property Management Committee – 5(a)

106 Ms. Taggart, Chair of the Property Management Committee, stated they have been
107 making large headways at the meetings & in the development of drafting best practices.

108 Ms. Taggart briefly explained the five goals of the Committee: Clarity and best practices on

109 security deposits and management of client accounts; advocacy for education of all
110 property and association management; audit of Alaska of real estate property
111 management and association regulations to bring up the standards to today's practice;
112 research what other states have done in property management and association
113 management, specifically through ARELLO and Florida; and connecting property and
114 association management resources to the public.

115
116 Ms. Taggart presented the Commission with best practices for property management
117 reporting, and would like it to be posted to the REC website for their consideration.

118
119 Ms. McConnochie thanked Ms. Taggart for the report, and the excellent job the Committee
120 is doing. She expressed concern on the "Definitions" section of the document regarding
121 using the term "customer" verses "client". Ms. McConnochie explained that if she's talking
122 about somebody she worked for, such as a landlord or homeowner's association board,
123 the proper term would be client or representation. Ms. Taggart agreed and stated that
124 could be changed to whatever the Commission agreed the appropriate term should be.

125
126 Ms. Markwood stated she appreciated Ms. Taggart and Ms. Nelson's hard work on the
127 document, and all the Committee participation working on the document. She thinks it's a
128 great start, and she's proud to stand behind it. She also agreed with the recommended
129 edit to the "Definitions" section.

130
131 Ms. Nelson recommended the document be approved with the amendment to change
132 "Customer" under the "Definitions" section to "Customer/Client".

133
134 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

135
136 **RESOLVED to adopt the Property Management Committee's best**
137 **practices for property management reporting to be published on the**
138 **REC website, as amended.**

139
140 **All in favor; Motion passed.**

141
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143 **Agenda Item 4 – Investigative Report**

144 **Probation Report – 4(a)**

145 Ryan Gill, REC Probation Monitor, presented the probation report to the Commission.
146 There are 3 licensees on probation, 1 licensee released from probation, and 1 licensee
147 surrendered their license since the last report. Everyone on probation is currently in
148 compliance.

149
150 **Statistical Report – 4(b)**

151 Autumn Miller, REC Investigator, presented the investigation statistics for the reporting
152 period of June 5, 2020 through September 9, 2020. There are 33 open matters and 22
153 matters were closed from the last report.

154 Ms. Markwood asked what "Monitor" status meant. Ms. Miller explained it usually means
155 the case is in litigation or is pending additional action/information – typically when it
156 involves an open criminal investigation from another agency.

157
158 Ms. Nelson commended the staff for doing a good job on keeping the cases moving
159 forward on all the complaints and investigations. She thinks everyone is doing a great job,
160 and she really appreciates all the hard work. Ms. McConnochie echoed Ms. Nelson's
161 gratitude.

162

163 Fine Matrix – Status Update – 4(c)

164 Ms. Whaley stated investigations role in developing or updating a disciplinary matrix for a
165 Board is to provide the historical case precedents to review, so the violation patterns can
166 be seen and what actions – be it a disciplinary or non-disciplinary action – were used to
167 resolve the matters. The Commission will then work with the Executive Administrator to
168 draft and compose the matrix. Once the document is in its final stages, investigations will
169 review it for accuracy/consistency. Then, it will need to be sent to the Department of Law
170 for final review/approval before the document can be adopted. Ms. Whaley stated case
171 precedent was pulled from January 1, 2016 to present, and will give the Commission a
172 good foundation to move forward with drafting the document.

173

174 Ms. Consalo informed the Commission she received the case precedent documents from
175 Ms. Whaley, and her plan was to plug the information in to the new matrix. Once the draft
176 matrix is complete, Ms. Consalo will sent the matrix and the case precedent document to
177 the Commission members for review/additional input. Ms. Consalo's goal is to have this
178 information sent out to the Commission members for review by the date of the next
179 meeting.

180

181 Ms. McConnochie asked Ms. Whaley if she could talk about the difference between civil
182 penalties (imposition of civil fine) and consent agreements. Ms. Whaley explained that an
183 imposition of civil fine is a license action that is only a fine. They are typically used for
184 minor offenses or technical violations, and are not reportable to outside agencies. A
185 consent agreement is a conglomeration of multiple terms such as probation, continuing
186 education, civil fine, and a reprimand. It's essentially a combination of several different
187 disciplinary actions into one, and is reportable to outside agencies. Historically, the
188 Commission has used consent agreements to resolve violations in the past; however, the
189 Commission has adopted the ability to use an imposition of civil fine, so, it is a tool the
190 Commission has in their arsenal.

191

192 Ms. McConnochie asked Ms. Whaley what the benefit would be in using an imposition of
193 civil fine verses a consent agreement. Ms. Whaley explained the benefit of using an
194 imposition of civil fine is that it allows the Commission to have another option when
195 recommending cases for disciplinary action. It's a lesser form of discipline compared to a
196 consent agreement, and can be used for cases where the violation is considered minor.

197

198 Ms. McConnochie asked if the Commission began to use the imposition of civil fine as a
199 recommendation in future cases, would they be able to set this new case precedent
200 without causing any issues. Ms. Whaley confirmed that the Commission's past case
201 precedents were primarily consent agreements; however, if the Commission wants to start
202 implementing a lesser utilized tool to resolve certain violations moving forward, then they
203 can certainly do that. Taking into account on how cases have resolved in in the past, the
204 Commission can evolve and determine, that in certain instances, an imposition of civil fine
205 would be an appropriate resolution moving forward. For instance, when the investigator
206 sends a review form to fill out on a case, and the reviewing Commission member is citing
207 applicable violations and deciding on a recommendation to resolve the violations, if the
208 recommendation is an imposition of civil fine but falls outside of case precedent, that is
209 okay. The reviewing Commission member can still move forward with the recommendation
210 as long as they provide a detailed explanation as to why they're deviating from case
211 precedent. Investigations just needs a good justification to move forward. If this is
212 something the Commission is thinking about implementing into their draft disciplinary
213 matrix, that would be something they would need to review and discuss as a group. Ms.
214 Whaley also clarified that because an imposition of civil fine is a formal disciplinary action,

215 it would have to be presented to the entire Commission for approval (just like a consent
216 agreement).

217
218

219 **Agenda Item 6 – Old Business**

220 AREC Property Transfer Disclosure Form – 6(a)

221 Mr. Pruhs had to leave the meeting early and was unable to comment on the progress of
222 this project; however, Ms. McConnochie asked if any of the other Commission members
223 would be interested in assisting Mr. Pruhs with this project. Both Ms. Markwood and Ms.
224 Nelson volunteered to assist Mr. Pruhs, in hopes to have a draft of the recommended
225 changes for everyone to review at the December meeting.

226
227

228 **Agenda Item 2 – Public Comments**

229 Ms. McConnochie was informed there was another member of the public who wanted to
230 make a public comment during the public comment period, but had technical difficulties
231 and was unable to participate. Ms. McConnochie agreed to re-open the public comment
232 period to allow for the additional public comment.

233

234 Sue Brogan, Chief Operating Officer for United Way of Anchorage, provided public
235 comment on their distribution of COVID-19 funds for rent and mortgage assistance. She
236 reported that they've had over 3,600 transactions, meaning a lot of people have been
237 helped. Further, more funds have just been made available, and they want to partner with
238 landlords and property managers to look at and make sure all their tenants are receiving
239 assistance. A household can be helped up to three times or up to \$3,000. Ms. Brogan
240 asked if Ms. Taggart had anything to add.

241

242 Ms. Taggart stated landlords and property managers have been trying to connect tenants
243 to resources, but it has been a challenge. There are many funds out there, but trying to get
244 the funds, the tenants, the landlords, and the property managers to connect is a big
245 challenge right now. For example, Alaska Legal Services had a 30 - 45% influx in their
246 phone calls, just from landlords and tenants. They're only able to answer one out of four
247 phone calls, because it's that many calls coming in for help. One idea was to see if
248 property managers could take some of the information from United Way and send out the
249 information through the ListServ to connect the licensees that are property managers. The
250 hope is to help merge several property managers in different areas, and put all a list of
251 their resources together to connect property managers statewide.

252

253 Ms. McConnochie asked Ms. Taggart for clarification on what she is asking from the
254 Commission. She asked Ms. Taggart if she was asking the Commission to distribute a
255 collaborated information piece of resources for property managers in the ListServ. Ms.
256 Taggart confirmed that is what she was requesting.

257

258 Ms. Markwood asked if the 3,600 individuals helped were strictly from the Anchorage area.
259 Ms. Brogan confirmed they were. Ms. Markwood then state she's grateful that there are
260 CARES funds available for tenants and landlords. She has been the recipient of numerous
261 CARES funds for tenants trying to stay in their homes, and it's been a challenge for
262 everybody. She then asked Ms. Brogan if owners of condos were able to receive funds
263 towards their HOA dues. Ms. Brogan was unsure of the answer, but stated she would find
264 out and get the answer to Ms. Taggart to share with everyone. Ms. Markwood further
265 stated she thinks the collaboration is a great idea, and she doesn't have any problem
266 helping get the information out to tenants and landlords in all areas of the state.

267

268 Ms. Nelson stated she also thinks the collaboration is a great idea, and agreed with having
269 the information be a statewide resource. There are a lot of people in need, and any way
270 the Commission can assist is a great thing. She appreciates the efforts of Ms. Taggart and
271 Ms. Brogan putting the information together.

272
273 Ms. McConnochie thanked Ms. Brogan and Ms. Taggart for bringing this to the
274 Commission's attention, and the willingness to collaborate and draft a message for the
275 Commission to consider & disseminate via a ListServ announcement.

276
277

278 **Agenda Item 7 – New Business**

279 **Licensed/Unlicensed Assistants in Different Jurisdictions – 7(a)**

280 Ms. McConnochie presented the findings of her research into how other jurisdictions dealt
281 with both licensed and unlicensed assistants. The unlicensed assistants were dealt with
282 the same way Alaska does in almost every single jurisdiction. They have a complete list of
283 things you cannot do; what you must have a license for; and in almost every single case,
284 licensed assistants are required to apply and meet the same criteria individuals who are
285 licensed. The one thing she thought was interesting were advertising regulations.
286 Washington State has an information brochure pamphlet, in which they go through and
287 talk about the types of advertising requirements they have for teams or assistants. The
288 bottom line was ensuring the brokerage name is always prominent in any advertisements -
289 they were specific with font sizes, etc. Ms. McConnochie proposed to have a discussion to
290 see if the Commission wants to follow along with something similar to what Washington
291 State has done by putting together some frequently asked questions or best practices on
292 how licensees should deal with advertising.

293

294 Ms. Nelson stated she really liked seeing this information and thanked Ms. McConnochie
295 for putting it together. She has started to prepare her own examples of what not to do, and
296 expressed she would be happy to assist Ms. McConnochie in putting together a best
297 practices document.

298

299 **Progress on 2020 Strategic Plan & New Items to Cover – 7(b)**

300 Ms. McConnochie commended the Commission for the excellent job they were doing in
301 completing so many tasks on the Strategic Plan to date. Ms. McConnochie asked Ms.
302 Consalo to give an update on application processing, the timeline associated with that,
303 and the expedited process available to military members & their spouses.

304

305 Ms. Consalo explained that, in the past, it took a bit longer to process applications. Part of
306 the reason for that was because the Commission was short staffed. The internal Division
307 policy/goal is to process license applications within 10 days of receipt. Ms. Consalo has
308 been able clear the inbox, so now when applications/documents are received, she is able
309 to process them within the same week they are received (as long as the application is
310 complete and not missing items). Regarding the expedited military application processing
311 request, Ms. McConnochie expressed to Ms. Consalo that she wasn't aware there was a
312 section dedicated to military and military spouses seeking licensure on the Division's
313 website. Within that link, there's a lot of information for military members & their spouses
314 regarding different specialty type licenses that they can apply for, and there is also a form
315 they can fill out for any licensing Board to expedite the processing of their application. The
316 applicant would complete the expedited request form with their application, and essentially
317 it places their application at the top of the list. Ms. Consalo explained that because she's
318 been able to turn around things so quickly, the expedited request form form isn't
319 particularly necessary on the Commission side of licensing; however, it is there, and it is
320 available for military members & their spouses who are applying for licensure.

321

322 Ms. McConnochie thanked Ms. Consalo for her efforts in turning license applications
323 around so quickly, and educating the Commission on the special provisions available to
324 military applicants & their spouses. Ms. McConnochie requested Ms. Consalo provide this
325 information in the next ListServ announcement. Ms. McConnochie then suggested the
326 next item on the Strategic Plan that could be worked on is the bullet point under the
327 "Inform licensees" section referring to criminal history and what constitutes a valid reason
328 a license will not be given/upgraded and the timing since conviction or completion of a
329 sentence. All agreed this would be a good next topic to start working on.

330

331

332 Break at 10:15 a.m.

333 Reconvened at 10:24 a.m.

334

335

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

337 **Education Statistics – 8(a)**

338 Ms. Harris presented the education report for September 23, 2020. She reported that as of
339 September 15, 2020, there were 12 pre-licensing courses; 4 broker upgrade courses; 302
340 elective courses; 33 designated courses; and 69 post-licensing courses approved, with a
341 total of 420 courses approved. Ms. Harris stated there are currently 63 approved
342 instructors.

343

344 **Licensing Statistics – 8(b)**

345 Ms. Consalo presented the licensing report for September 23, 2020. She reported that as
346 of September 14, 2020, there were 2,680 active licensees; 46 inactive licensees; 375
347 lapsed licenses with 4 of those for non-compliance of PLE; there were 279 transfers; 77
348 licensees who completed their PLE requirements; 7 license upgrades from salesperson to
349 associate broker; 3 license upgrades from salesperson to broker; 1 licensee on probation;
350 and 1 license was surrendered.

351

352 **RISC E&O Claims Report – 8(c)**

353 Ms. Consalo presented the report for RISC E&O claims for their second quarter (Apr –
354 Jun). Total closed claims were \$3,000, and the total open claims were \$2,000, for a total of
355 \$5,000 in claims for the second quarter. These claims were the same claims/cases
356 reported in the first quarter report, so there were no new claims opened in the second
357 quarter.

358

359 **Recovery Fund Balance Report – 8(d)**

360 The Commission reviewed the Recovery Fund Balance Report as presented.
361 Ms. Consalo presented the Recovery Fund Report for the fourth quarter, ending June 30,
362 2020. The Commission received a total of \$12,765 for license fees processed between
363 April and June, leaving the current total fund balance at \$327,850. The projected balance
364 for the end of the fiscal year is \$327,850 with an average 2-year licensing cycle fund
365 balance of \$302,763.

366

367

368 **Agenda Item 9 – Commission Member Comments & Questions**

369 There were no additional comments or questions.

370

371 Due to Mr. Pruhs having to leave the meeting early, and the inability of the Commission to
372 vote on three matters, the Commission agreed to recess, and reconvene at 6:00 p.m. to
373 vote on those matters.

374
375 The Commission recessed at 10:31 a.m.

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377
378 **Wednesday, September 23, 2020**

379 **Agenda Item 1 - Call to Order**
380 Chairperson PeggyAnn McConnochie called the meeting to order at 6:08 p.m., at which
381 time a quorum was established.

382
383 **Roll Call – 1(a)**
384 **Members Present via Zoom**
385 PeggyAnn McConnochie, Broker, 1st Judicial District, Chairperson
386 Margaret Nelson, Broker, Broker at Large, Vice Chairperson
387 David Pruhs, Broker, 4th Judicial District
388 Cheryl Markwood, Broker, Broker at Large

389
390 **Excused Absent:**
391 Samuel Goldman, Broker, 3rd Judicial District
392 Jaime Matthews, Public Member
393 Jesse Sumner, Public Member

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395 **Staff Present:**
396 Shyla Consalo, Executive Administrator

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398 **Staff Present via Zoom:**
399 Marilyn Zimmerman, Paralegal

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402 **Guests Present via Zoom:**
403 Errol Champion, Broker, Coldwell Banker Race Realty, Juneau
404 Julie Burns, Public Member

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406
407 **Agenda Item 6 – Old Business**
408 **Proposed Regulation Revisions for Major Regulation Project – 6(b)**
409 Ms. Consalo explained there were four additional updates made to the proposed
410 regulation changes since they were last reviewed at the June 2020 meeting. 12 AAC
411 64.059(d)(1)(b) and (d)(5) would be updated to reflect the correct age and amount of time
412 needed to qualify for a broker’s license. 12 AAC 64.130 & 135 would be updated to say
413 “licensee” verses “agent”. There were no questions regarding those updates, and there
414 were no additional changes recommended.

415
416 **On a motion duly made by Mr. Pruhs, seconded by Ms. Markwood, it was**
417
418 **RESOLVED to approve the proposed regulation changes for public**
419 **comment, as presented.**

420
421 **All in favor; Motion passed.**

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424 **Agenda Item 4 – Investigative Report**
425 **CE Investigative Matters – 4(d)**
426 **On a motion duly made by Ms. Nelson, seconded by Mr. Pruhs, it was**

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RESOLVED to go into Executive Session in accordance with AS 44.62.310(c) for the purpose of discussing subjects that tend to prejudice the reputation and character of any person.

All in favor; Motion passed.

The Commission went into Executive Session at 6:10 p.m.

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

RESOLVED to come out of Executive Session.

The Commission came out of Executive Session at 6:20 p.m.

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

RESOLVED to accept the Consent Agreement in case #2020-000782.

Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, and Ms. McConnochie – yes.

Motion passed.

The Commission accepted the Consent Agreement in case #2020-000782.

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

RESOLVED to accept the Consent Agreement in case #2020-000783.

Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, and Ms. McConnochie – yes.

Motion passed.

The Commission accepted the Consent Agreement in case #2020-000783.

Agenda Item 10 – Adjournment

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

RESOLVED to adjourn.

All in favor; Motion passed.

Meeting adjourned at 6:22 p.m.

The next meeting will be held December 16, 2020 in Anchorage.

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Prepared and submitted by:
Real Estate Commission Staff

Approved:

PeggyAnn E.
McConnochie

Digitally signed by PeggyAnn E.
McConnochie
Date: 2020.12.19 14:05:16
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PeggyAnn McConnochie
REC Chairperson
Alaska Real Estate Commission