

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
 REAL ESTATE COMMISSION

CONDENSED MINUTES OF THE MEETING HELD

DECEMBER 8, 2022

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held December 8, 2022, teleconference, at the State of Alaska Atwood Building, 550 W. 7th Avenue, Suite 1560, via Zoom, Anchorage, Alaska.

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| Date: | December 8, 2022 |
| Time: | 9:00 a.m. |
| Location: | Atwood Building, 550 W 7 th Ave Ste 1560, Anchorage AK |
| Attending: | <p>Commission Members: Traci Heaton- Associate Broker/1st Judicial District; Juneau Elizabeth Schok- Associate Broker. 4th Judicial District; Fairbanks Jaime Matthews- Public Member, Glennallen Devon Doran- Broker/ 3rd Judicial District; Wasilla Cheryl Markwood- Broker/Broker at Large/Chairperson; Fairbanks </p> <p>Staff: Nancy Harris- Executive Administrator, REC Kery Givens – Project Assistant, REC Anna Gabriel, Investigator, REC/APR</p> <p>Public: Errol Champion, AAR Liaison, Broker, Coldwell Banker Race Realty, Juneau Paddy Coan, Associate Broker, Keller Williams Realty, AK Group, Anchorage</p> |
| Absent: | <p>Commission Members: Jesse Sumner-Public Member; Wasilla Chad Stigen- Associate Broker/Broke At Large; Palmer</p> |

| Agenda Item 1 – Call to Order Agenda Item 1(a) – Roll Call | |
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| Brief Discussion: | <p>Chairperson Cheryl Markwood called the meeting to order at 9:05 a.m., roll call was taken at which time a quorum was established.</p> <p>Ms. Markwood stated that Mr. Stigen had an excused absence, Mr. Sumner is excused and suspects he will be resigning his seat on the Commission, Mr. Sumner was elected to the House of Representatives for District 28, so that seat will be open.</p> |

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| Action Items: | <i>Proceed with meeting.</i> | |
| Agenda Item 1(b) - Approval of 12/8 Agenda | | |
| Brief Discussion: | <i>Commission members reviewed the agenda as presented.</i> | |
| | Ms. Markwood stated for clarification that a guest would be joining the meeting at 9:30 am sharp so they would need to move agenda items around to meet that time. She also stated that for the proposed regulations she would like to move the consumer disclosure regulation to the bottom of the list to discuss last so that they will be assured to cover all the regulations. | |
| Motion: | On a motion made by Schok, seconded by Doran, it was, Resolved to approve the December 8, 2022, meeting agenda as presented. | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood – Y | |
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| Action Items: | <i>None</i> | |
| Agenda Item 1(c) – Statements of Conflicts of Interest/Ethic Violations | | |
| Brief Discussion: | <i>There were no statements of conflict or ethic violations.</i> | |
| Motion: | None | |
| Action Items: | <i>Report no conflict of interest or ethic violations when required.</i> | |
| Agenda Item 2 – Public Comments | | |
| Brief Discussion: | Errol Champion, Chair of the Legislature and Real Estate Commission Committee for AK Realtors spoke to the Commission regarding the efforts going on in Juneau to adopt/pass Proposition 4. He said the was an effort by the local community headed by Realtors and MLS when the City of Juneau passed an ordinance requiring property transaction disclosure. The vote on that Proposition was positive and repealed by the City and Borough | |

of Juneau. It is no longer required. The Realtors have looked at possibly a need to reinforce the fact that AK is a non-disclosure state and will remain a non-disclosure state as it relates to real property values.

Mr. Champion thanked the Commission for the opportunity to speak.

Ms. Markwood thanked Mr. Champion for attending the meeting, his comments and all the work you do on behalf of the industry.

Paddy Coan, Associate Broker, manager for Keller Williams Realty AK Group addressed the Commission regarding an email she had sent Ms. Harris in October dealing with:

1. Have title companies hold earnest money (which they already do in some cases)
2. Pay the commission (with Broker approval) directly to the licensee from the title company as it is now currently being done in Washington State with basically the same statement, "licensees can be paid only through their employing broker".

She said the language in the state of WA is very similar to AK's where it states their licensees can be paid only through their employing broker and they allow this practice. She did not know or suggesting there is a need for a change in regulation but wanted to present it to the Commission for their consideration. She doesn't want to start something without making sure everybody understands what they are asking, give the Commission a roadmap of how to do it, policy manual, and if there were any issues, they would share those and improve the system. The intent in large companies is just the sheer number of transactions that is happening. The She said pace of business is at a faster pace and we have not made a lot of changes and discussed the way business is actually happening. She wanted to start the conversation.

Ms. Markwood asked if the Commission would need to do a regulation change in our current regulations in order to adopt this action?

Ms. Coan said she didn't think so because she provided the actual statutory language from WA and it basically says that licensees can only be paid through their employing broker. She was thinking Ms. Harris could contact WA REC and find out did they have to do any regulation changes to allow this practice.

Ms. Markwood said that may be a question that will need to go to the AG for clarification.

Ms. Coan had another issue that she has brought up to the Commission in the past and has not received any feedback regarding investigation of a licensee within their office or brokerage. She said that the statutes require the broker and brokerages to supervise their people, however, when there is an investigation or an investigation letter is sent out to a licensee, the broker is not informed of that. She said she thinks it is almost contrary to what the spirit of what the law says, because the Commission who's controlling that information, the investigator is part of that unit, is not sharing that information that might be critical to them to be able to check in on other transactions and more closely be about to supervise people because the Commission knows information that they don't know.

She said she would again like to ask that when an investigation letter goes out to a licensee that it also goes to the supervising broker of that licensee.

Ms. Doran said she was of that same thought in the past and she was advised to deal with it at the brokerage policy level.

Ms. Coan said that they also have addressed this in their broker policy manual, but it seems contradictory for an agency who says this is our job, yet they don't give them all information so that they can do a better job supervising. She said she will continue to bring this up because she thinks it is very important.

Ms. Coan thanked the Commission for the opportunity to speak.

The Commission thanked Ms. Coan for her comments.

Fred Wagner, PLS, MSB Platting Officer. Mr. Wagner emailed his comment to Ms. Harris to be presented to the Commission for their consideration. His email said:

Dear Commissioners,

I am Fred Wagner, PLS, MSB Platting Officer, one of my duties as the Platting Officer is that I am quite often required to reach out to Real Estate Professionals to inform them that the advertising, or offering for sale, of lots that are not a part of a recorded plat is a violation of State statutes and MSB code. When I have reached out to these professionals, I find that all of them seem not to understand that this is indeed a violation. Some very respected and well-known realtors seem to be unaware of these statutes. I would propose that a notification by this commission would go a long way to informing the Real Estate Professionals about these and will hopefully avoid anyone being fined or prosecuted for these violations in the future.

Alaska Statute

AS 29.40.180. Prohibited Acts; Criminal Penalties.

(a) The owner of land located in a subdivision may not transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter. A person may not file or record a plat or other document depicting subdivided land in a public recorder's office unless the plat or document has been approved by the platting authority.

(b) For the violation of a provision of this chapter, a subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a platting authority in the exercise of its powers under this chapter, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days.

Sincerely,

Fred Wagner, PLS
MSB Platting Officer

The Commission said they may want to put out a reminder, as Mr. Champion had suggested, regarding brokerages updating their broker policies and guidelines in the beginning of the year with these types of issues that come up.

Lisa Kostelecky, a real estate salesperson with Associated Island Brokers, Inc, Kodiak, asked that her email with a concern be presented to the Commission during public comment. Her email stated:

Hi Nancy,

As the topic of supervision is currently being reviewed, the regulations for a Broker that has moved, or lives full time out of state, leaving the Alaska office permanently without a physically present Broker, or Associate Broker, instead of as a temporary situation such as a vacation, should be addressed.

I believe it's more of a policy issue with the commission as to if a long-distance Broker fits the intent of the supervisory rules that are in place, and if being able to monitor the office remotely with today's technology is sufficient and meets the public's best interest. It seems like the intent of current regulations on remote work and monitoring is based more toward agents working remotely, and not toward the Broker/ Associate Broker positions, which are required to be onsite in both a regular office and a branch/satellite office. This policy should be reviewed for consistency and clarified, and maybe the policy of Disclosure to the public that agents are not actually in state should also be addressed. Always going with the idea

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| | <p>that full disclosure is important to remain ethical and keep our customers trusting the integrity in the real estate market professionals.</p> <p>Thank you for your time,</p> <p>Lisa Kostelecky</p> <p>The Commission discussed Ms. Kostelecky's concern and said they could look at clarifying regulations. Ms. Heaton pointed out that this may be addressed later in the meeting with one of the regulation changes.</p> | |
| Motion: | None | |
| Action Items: | None | |
| Agenda Item 4 – Investigations Agenda Item 4(a) – Licensing Issue – Proposed Decision OH No 2-0633-REC/2022-000602 | | |
| Brief Discussion: | Ms. Markwood welcomed ALJ Pederson to the meeting. | |
| Motion: | <p>On a motion duly made by Heaton, seconded by Matthews, it was,</p> <p>Resolved to go into executive session in accordance with the provisions of AK Statute 44.62.310(c), for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.</p> | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| Executive Session: | <p><i>Commission went into executive session at 9:32 am.</i></p> <p><i>Out of executive session at 9:41 am</i></p> | |

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| Agenda Item 4(a) cont'd – Licensing Issue – Proposed Decision OH No 2-0633-REC/2022-000602 | | |
| Brief Discussion: | None | |
| Motion: | On a motion by Doran, seconded by Matthews, it was, | |

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| | Resolved to adopt the proposed decision by Judge Pederson in the matter of Michael J. Sorensen Jr., case #22-0633. | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| Action Items: | <i>Staff to obtain Chair’s signature of the Commission decision and forward to the Hearing Office.</i> | |

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| Agenda Item 4(b) – Statistical Report | | |
| Brief Discussion: | Investigator Anna Gabriel presented the investigation statistics for the reporting period of August 19, 2022, through November 22, 2022. There are 71 cases opened and 10 cases were closed from the last report. | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | None | |

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| Agenda Item 3 – Review of Meeting Minutes Agenda Item 3(a) – September 8, 2022 | | |
| Brief Discussion: | None | |
| Motion: | On a motion by Doran, seconded by Heaton, it was, Resolved to approve the December 8, 2022, meeting as presented. | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |

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| | Markwood - Y | |
| Action Items: | <i>Staff to obtain signature from Chair and place on REC website.</i> | |
| Agenda Item 3(b) – September 26, 2022 | | |
| | Ms. Matthews stated that the meeting minutes indicated that the meeting started at 1:30 pm and adjourned at 12:08 pm. | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | <i>Staff to verify time of adjournment, make correction, and place amended copy of meeting minutes in OnBoard for Commission members to reconsider for approval.</i> | |

Break at 9:50 am
 Reconvened at 10:00 am

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| Agenda Item 5 – Division Update Agenda Item 5(a) Financials | | |
| Brief Discussion: | Ms. Dumas, Chief Financial Officer for CBPL, presented her Division Update of the REC financials for FY2022/ 4 th Qtr, and FY 2023/1 st Qtr, to the Commission. | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | None | |

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| Agenda Item 6 – Old Business Agenda Item 6(a) – 2023 Strategic Plan -updates | | |
| Brief Discussion: | Ms. Harris stated that she updated the strategic plan with the proposed regulations the Commission is reviewing at this meeting, payment of commissions to licensees from title company (with the broker’s permission) and title companies hold earnest money, and regulation 12 AAC 64.064(g) | |

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| Brief Discussion: | Commission members reviewed and discussed the public comments received. | |
| Motion: | On a motion by Matthews, seconded by Heaton, After acknowledging public comments received and considering the cost to private persons, I move to adopt the section 12 AAC 64. 61(b) dealing with Application by Endorsement as amended, changing the word “authority” to “authorities”. | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| Action Items: | Staff to send Commission’s adoption of regulations to the Regulation Specialist in Juneau for the next step in the regulation process. | |

12 AAC 64. 075, Employment and Transfer, re: license certificate

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| Brief Discussion: | Commission members reviewed and discussed the public comments received. | |
| Motion: | On a motion by Matthews, seconded by Doran, After acknowledging public comment that was received and considering the cost to private persons, I move to adopt the section 12 AAC 64. 075, Employment and transfer, as proposed. | |
| Recorded Votes: | Doran- Y | Heaton – Y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |

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| Action Items: | Staff to send Commission’s adoption of regulations to the Regulation Specialist in Juneau for the next step in the regulation process. |
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12 AAC 64. 125, Supervision for main and branch offices

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| Brief Discussion: | Commission members reviewed and discussed the public comments received. | |
| Motion: | <p>On a motion by Heaton, seconded by Doran,</p> <p>Amend 12 AAC changing (3) to supervision for compliance of <u>brokerage polices, guidelines and requirements which are specifically listed under AS 08.88.685(a) (1-5)</u> to be reviewed by legal counsel and, if needed, sent out for public comment again, with a 30-day written public comment.</p> | |
| Recorded Votes: | Doran- Y | Heaton – y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| | Action Items: | |

12 AAC 64. 500, Continuing Education Requirements, re: outside education

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| Brief Discussion: | Commission members did not see any public comments received regarding this specific regulation. | |
| Motion: | <p>On a motion by Matthews, seconded by Doran,</p> <p>After acknowledging no public comment was received and considering the cost to private persons, I move to adopt the section 12 AAC 64. 500 Continuing Education Requirements, as proposed.</p> | |
| Recorded Votes: | Doran- Y | Heaton – y |

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| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| Action Items: | Staff to send Commission’s adoption of regulations to the Regulation Specialist in Juneau for the next step in the regulation process. | |

| 12 AAC 64. 118, Consumer Disclosure, page 2 revision | | |
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| Brief Discussion: | Commission members reviewed all public comments regarding the Consumer Disclosure regulation. | |
| Motion: | On a motion by Schok, seconded by Matthews, No action was taken on regulation 12 AAC 64.118 and to send this regulation/form back to committee for further revisions. | |
| Recorded Votes: | Doran- Y | Heaton – y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| Action Items: | Staff to send Commission decision to take no action on this regulation to the Regulation Specialist in Juneau. | |

Break at 10:30 am
 Reconvened at 10:36 am

| Agenda Item 7 – New Business Agenda Item 7(a) - Meeting Dates for 2023 | |
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| Brief Discussion: | The Commission members discussed the meeting dates for 2023. |
| | February 9 th |
| | June 8 th |
| | September 14 th |

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| | December 14 th | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | Staff to place meeting dates on REC website. | |

| Agenda Item 8 – Executive Administrator’s Report Agenda Items 8(a) – Licensing/Education Statistics | | |
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| Brief Discussion: | Ms. Harris presented the Licensing and Education report to the Commission. | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | None | |

| Agenda Item 8(b) – Recovery Fund Balance Report | | |
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| | Ms. Harris presented the Recovery Fund Report ending September 30, 2022. The Commission received a total of \$13,170 for license fees processed August through September 2022 with a current total fund balance at \$317,389 and the end of year fund balance of \$328,509. The projected balance for the end of the next fiscal year is \$310,302. | |
| Motion: | None | |
| Recorded Votes: | None | |
| Action Items: | None | |

| Agenda Item 9 – Commission Member Comments and Questions | | |
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| Brief Discussion: | Ms. Matthews –thanked everyone and she appreciated an efficient meeting. She said she did not have a lot of comments on the form but on the consumer side there were quite a few changes that went to the committee last time. She thanked everyone for their work and comments and wished everyone a Merry Christmas. | |

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| | <p>Ms. Heaton- stated that she agreed it was an efficient meeting, a good use of time. She said there were a lot of public comments on the Consumer Disclosure. It was nice to see the feedback from people. She said she thinks the change are positive and wished everyone a Merry Christmas and she looks forward to the new year.</p> <p>Ms. Duran- stated it was a great meeting, thank you!</p> <p>Ms. Schok- stated that she also thought it was a great meeting. She said she looks forward to working on the Consumer Disclosure form again; she liked some of the comments that were received. She said she believes we can make the form simple and still accomplish what we are looking for. She wished everyone a wonderful holiday season and looks forward to seeing everyone after the holidays. She said she hopes everyone who's time is up will reup.</p> <p>Ms. Markwood- stated this was not a long meeting but we accomplished a lot. She thanked the committee members that worked on the Consumer Disclosure because that was a big project, and we appreciate that. She welcomed Kery into our group and department, we appreciate you very much. She looks forward to seeing everybody in February and hopes that everyone that term is ending on March 1 will consider staying on and serve another term. This is end of her 4-year term and she said it has been a joy and she has learned so much and appreciates everyone very much for all their hard work. Merry Christmas!</p> | |
| Motion: | none | |
| Recorded Votes: | none | |
| Action Items: | none | |

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| Next Meeting: | February 9, 2023 |
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| Adjournment | |
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| Brief Discussion: | None |
| Motion: | <p>On a motion by Doran, seconded by Matthews, it was, Resolved to approve adjourn.</p> |

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| Recorded Votes: | Doran- Y | Heaton – y |
| | Matthews – Y | Schok – Y |
| | Stigen – absent | Sumner – absent |
| | Markwood - Y | |
| Action Items: | Meeting was adjourned at 12:12 pm | |

Prepared and submitted by:

Nancy Harris
Nancy Harris
Executive Administrator

Approved:

Cheryl Markwood
Cheryl Markwood, Chair
Alaska Real Estate Commission

Date: 2.9.2023