

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

MINUTES OF MEETING

March 15, 2007

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled Real Estate Commission meeting was held on March 15, 2007 at the State of Alaska Building, 9th Floor, Conference Room A, Juneau, Alaska.

Thursday, March 15, 2007

Agenda Item 1

Call to Order

Chairman Gene DuVal called the meeting to order at 9:04 a.m.

Chairman Gene DuVal introduced new member Lee Sherman to the Commission. Mr. Sherman fills the public member seat. The Commission members welcomed Mr. Sherman to the meeting.

Roll Call

Members present constituting a quorum were:

David B. Somers, Broker at Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District,

Chairman

Rita Wilson, Associate Broker, Broker at Large
F.Lee Sherman, Public Member
Tim Worthen, Public Member

Members absent (excused):

Roger Stone, Broker, 1st Judicial District
Brad Cole, Broker, 3rd Judicial District

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Licensing Examiner

Guests present via teleconference

Margo Mandel, Investigator
Andrew M. Hemenway, Office of Administrative Hearings

Steve Turner, Real Estate Appraiser
Mr. Pape, Surety Fund Claimant

Guests present:

Dave Feeken, Alaska Association of Realtors
David Brower, Assistant Attorney General
Andrew Hemenway, Office of Administrative Hearings
Jun Maiquis, Regulation Specialist

Approval of Agenda

The Commission members reviewed the revised agenda.

**On a motion duly made by Somers, seconded by Wilson,
it was**

RESOLVED to approve the revised agenda.

All in favor. Motion passed.

Commission member Rita Wilson distributed a copy of
Parliamentary Procedure to each member for their information.

Chair, Mr. DuVal introduced guest Mr. David Feeken to the
Commission. Mr. Feeken is with the office RE/MAX of Kenai and
is also the Industry Issue Legislative Chair for the Alaska
Association of Realtors.

Agenda Item 2

Approval of Minutes

Ms. Harris handed out to each member a revised copy of the
December 14, 2006 meeting minutes and the December 29, 2006
teleconference meeting minutes for their review.

December 14, 2006

Commission members reviewed the copy of the revised December
14, 2006 meeting minutes.

**On a motion duly made by Somers, seconded by Wilson
it was**

**RESOLVED to approve the December 14, 2006
meeting minutes as presented.**

All in favor. Motion passed.

December 29, 2006 - Teleconference

Commission members reviewed the December 29, 2006 teleconference meeting minutes as presented.

On a motion duly made by Wilson, seconded by Somers it was

RESOLVED to accept the December 29, 2006 teleconference meeting minutes as presented.

All in favor. Motion passed.

The Chair, Mr. DuVal brought two issues to the Commission that he would like to receive an update on and clarification.

- Have the draft of regulations for Public Official and Licensee Owned Rentals been out for public comment yet? Ms. Walsh said that they should receive an update from Mr. Maiquis on these regulations.
- Would it be more effective when the Commission requests Ms. Mandel to initiate an investigation if it comes from the Commission or from staff? Commission to ask Ms. Mandel if this procedure is working or is there a more effective way?

Commission member Ms. Wilson asked if a few issues from the December 2006 meeting minutes will be addressed at this meeting.

- The Commission had requested the Attorney General to interpret the issue of licensee owned rental activity having to go through their broker.
- The Commission asked for further investigation on Harper and Joyner. Ms. Walsh said that Ms. Mandel will address this with her report.
- The Commission requested that the Property Management regulations be put out for public comment. Ms. Walsh said that Mr. Maiquis will address this issue at this meeting.

Agenda Item 3

Investigator Report

Statistic Report

Ms. Mandel gave a brief outline of the investigative statistic report for the benefit of the new members.

- Statistical report covers fiscal year, July 1 to June 30 of following year
- A cover sheet shows the activity that has occurred the last quarterly meeting and then statistics from the entire fiscal year to date.

- The attached spreadsheet shows the opened and closed cases that have occurred during that time period
- Only case numbers are provided because these cases may come before the Commission for a decision and the Commission can not have any prior information on these cases.

Ms. Mandel presented her statistical report for the period of November 30, 2006 through February 22, 2007 to the Commission for their consideration.

The Commission members reviewed and discussed Ms. Mandel's report as presented.

Mr. DuVal asked Ms. Mandel what would be more effective when the Commission would like for her to initiate an investigation. Ms. Mandel said that the Commission would either file an official complaint or ask her directly if there have been any complaints against the licensees involved in the surety fund claims once they have gone to the Commission.

On a motion duly made by Somers, seconded by Wilson, it was

RESOLVED to accept the investigator's report as presented.

All in favor. Motion passed.

Agenda Item 5

Update on Regulations

Mr. Maiquis reviewed with the Commission members the changes of the draft of regulations 12 AAC 64.570 for adoption.

On a motion duly made by Wilson, seconded by Somers, it was

RESOLVED to accept the proposed regulation 12 AAC 64.570.

Commission members discussed the motion.

On a motion duly made by Somers, seconded by Worthen, it was

RESOLVED to amend the previous motion to add language to 12 AAC 64.570 from the December 29, 2007 teleconference meeting minutes, page 3, #2b, collecting rents, etc.

All in favor. Motion passed.

Public Official

On a motion duly made by Somers, seconded by Worthen, it was

RESOLVED to adopt the draft of the proposed regulation for Public Official 12 AAC 64.990(b).

All in favor. Motion passed.

Mr. Maiquis went over the regulation process with Commission members.

On a motion duly made by Wilson, seconded by Somers, it was

RESOLVED that the Regulation Specialist notify all licensees regarding regulation 12 AAC 64.570 only.

All in favor. Motion passed.

The Commission recessed for break at 10:00 a.m.
The Commission reconvened from break at 10:10 a.m.

On a motion duly made by Somers, seconded by Wilson, it was

RESOLVED that written public comment would only be allowed for all proposed regulations.

All in favor. Motion passed.

Dave Feeken

Mr. David Feeken, with the Alaska Association of Realtors, addressed the Commission regarding requested changes to statutes that were written by a working group in December. This bill will be introduced to the legislature on Friday, March 16, 2007. Mr. Feeken reviewed the house bill for the Commission's consideration and support. The issues addressed were:

- Increase the required pre licensing education hours from 20 to 40 hours.
- Increase continuing education hours from 20 to 30 hours.
- Add language:
 - A broker may reside out of state, if the broker
 - Does not employ any real estate licensees or;
 - Employs real estate licensees at an office in the state and all those licensee are under the direct supervision of a real estate associate broker
- Multiple offices
 - One broker can have multiple offices as long as they share a single physical address.
- Add:
 - Written policy comply with all real estate laws
 - Real Estate licensees act fairly and honestly
 - Notify the broker
 - Regular communication with the broker or designee
 - Identify and disclose the relationship

Mr. Somers as the Commission's legislative liaison gave his legislative report and reasoning behind the changes that will be introduced in the house bill.

Steve Turner

Mr. Turner addressed the Commission regarding Appraisal Board Legislation HB141- withdrawn by the bill sponsor on March 13, 2007.

Agenda Item 7

Legislative Report

On a motion duly made by Somers, seconded by Wilson, it was

RESOLVED that the Commission is in support of this draft Legislation number to be named with an effective date of the education be 02/01/08.

All in favor. Motion passed.

Commission discussed the broker upgrade hours and if it is adequate education for new brokers.

The Commission asked for staff to audit one broker upgrade class to see if the proper information is being taught to students.

Commission members clarified that the Broker upgrade course was not related to broker duties.

Mr. Feeken spoke of a summit meeting scheduled to take place at the end April to include a variety of different groups in the industry getting together to discuss trends that the real estate industry is in.

Issues that will be addressed:

- predatory lending
- real estate trends
- world wide market
- increase in internet usage
- appraisal fraud

Groups to attend:

- Division of Banking
- Alaska Housing
- Real Estate Commission
- Realtors
- Home builders
- FBI
- Appraisers
- Mortgage Bankers Association

Mr. Feeken said the ideal was that the real estate industry get together to workout these issues and then develop education criteria and hopefully the Real Estate Commission will endorse some of that as continuing education.

Mr. Feeken also commented that it would be nice if the Real Estate Commission could go paperless, to do transfers and changes thorough the computer system, drag and drop. There are other states that have perfected this system.

The Commission briefly discussed the issue of a paperless system.

The Commission recessed for break at 11:12 a.m.

The Commission reconvened from break at 11:17 a.m.

Agenda Item 6

Surety Fund Claims

S-27-001, Welin v. McGregor

(Administrative Law Judge Hemenway)

Commission Chair, Mr. DuVal, moved to enter into Executive Session in accordance with AS 44.62.310(d) (1); the topic is for the hearing of S-27-001.

Commission moved into Executive session at 11:20 a.m.

Commission out of Executive session at 11:25 a.m.

On a motion duly made by Somers, seconded by Worthen, it was

RESOLVED to adopt the findings of S-27-001.

All in favor. Motion passed.

On a motion duly made by Worthen, seconded by Sherman, it was

RESOLVED to refer to the AG's office for pursuit of recovery of the surety fund claim S-27-001.

All in favor. Motion passed.

S-25-010 Larsen v. Green

(Administrative Law Judge Hemenway)

Commission Chair, Mr. DuVal, moved to enter into Executive Session in accordance with AS 44.62.310(d) (1); the topic is for the hearing of S-25-010.

Commission moved into Executive session at 11:32 a.m.

Commission out of Executive session at 11:52 a.m.

On a motion duly made by Wilson, seconded by Sherman, it was

RESOLVED to adopt S-25-010 of Judge Kennedy's decision.

All in favor. Motion passed.

S-26-006 Pape v. Miller & Korting

Commission member Somers and DuVal recused themselves from this case. Two Commission members, Cole and Stone, were absent, therefore, surety fund claim S-26-006 could not be addressed because there was not a quorum. A mail ballot or teleconference will need to be conducted to address surety fund claim S-26-006.

Mr. Pape spoke with the Commission members by teleconference. Ms. Walsh and Commission members informed Mr. Pape that they were unable to make a decision on surety claim S-26-006 because there was not a quorum and that a mail ballot would need to be done to address this claim. A mail ballot will only be mailed to the voting members.

On a motion duly made by Worthen, seconded by Sherman, it was

RESOLVED to proposed that S-26-006 to a mail ballot to all REC members able to vote.

All in favor. Motion passed.

Agenda Item 8

Licensing Examiner's Report
Statistics Report

Ms. Harris presented her statistical report for the period of September 12, 2006 through February 28, 2007 to the Commission.

The Commission members reviewed and directed questions to Ms. Harris regarding the report as presented.

On a motion duly made by Somers, seconded by Wilson, it was

RESOLVED to accept the licensing examiner's report as presented.

The Commission recessed for break at 12:05 p.m.
The Commission reconvened from break at 1:07 p.m.

MOA – Bournival

Mr. Winker, Paralegal for the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, presented the MOA for case 3004-06-014 to the Commission members for their consideration.

Mr. Sherman said that he knows the gentleman, Mr. Bournival, but does not know the issue.

Mr. Winker said that Mr. Bournival relied on broker upgrade education to use as continuing education and not for broker training. He was short five designated continuing education hours but completed them on March 12th. Also, the suspension will not be imposed because he has already completed the five hours of continuing education.

On a motion duly made by Somers, seconded by Wilson, it was

RESOLVED to accept the MOA for case #3004-06-014 as presented.

All in favor. Motion passed.

Agenda Item 12

New Business

ARELLO

An email was directed to the Commission from Kathleen Manchin who is conducting a research project with a couple questions regarding commissions. The questions were:

- Does your jurisdiction permit agents to use commission advance programs or companies (which typically pay agents advances on pending commissions, then have the brokerage pay back the loan after the transactions has been completed)?
- Do any of your laws, regulations or policies govern commission advance companies?

- Have you had any issues arise with commission advance companies such as Commission Express?

The Commission's said that it is between the licensee and the broker. There was nothing in the Real Estate Statutes and Regulations that address this issue.

ARELLO Mid-Year and Annual Conference/Committee Assignments

Ms. Walsh would like to attend the ARELLO Mid-Year meeting April 25-28, 2007 in Banff, Alberta Canada and the Annual meeting to be held in New York in mid September. Ms. Walsh is on the Education Certification Committee and the Investigator Resource Committee.

On a motion duly made by Somers, seconded by Sherman, it was

RESOLVED to recommend that Sharon Walsh be funded to attend the ARELLO Mid-year meeting in Banff, Canada and the Annual meeting in mid September in New York.

All in favor. Motion passed.

Agenda Item 9

Assistant Attorney General

Assistant Attorney General Dave Brower spoke to the Commission regarding the procedures for public and government meetings. Mr. Brower referenced statues 44.62.310 Government Meetings and 44.62.312 State Policy regarding meetings.

The Commission recessed for break at 2:01 p.m.

The Commission reconvened from break at 2:20 p.m.

**Agenda Item 12
Continued**

New Business

Advertising Incentives

Ms. Walsh received a phone call from a licensee who asked if he could advertise that the seller was providing two airline tickets to Hawaii for the buyer. Ms. Walsh spoke with Ms. Mandel regarding the issue and called the licensee back. The licensee decided that he was uncomfortable advertising that and therefore he did not do it.

The Commission agreed it was permissible as long as the incentive is from a third party, it did not come from the listing licensee and it is not tied to the commission.

Email from Kansas Real Estate Commission

Sharon Walsh received an email from Sherry Diel the Executive Director of the Kansas Real Estate Commission requesting a copy of the Alaska statute that addressed the ban on felons from obtaining a real estate license in Alaska. Alaska does not have a statute that bans felons from obtaining a real estate license therefore Ms. Walsh could not forward her that statute.

Agenda Item 10

Executive Administrator's Report

Surety Fund Balance Report

Ms. Leatham, the Accounting Technician in the Juneau office, presented the Surety Fund Balance Report to the Commission.

The Commission members reviewed and directed questions to Ms. Leatham regarding the report as presented.

Revenue & Expenditure Report

Ms. Leatham presented the Revenue & Expenditure Report to the Commission.

The Commission members reviewed and directed questions to Ms. Leatham regarding the report as presented.

**On a motion duly made by Wilson, seconded by Somers,
it was**

**RESOLVED to accept the Financial Report as
presented.**

All in favor. Motion passed.

Surety Fund Claim Activity

Ms. Walsh presented the Surety fund claims activity spreadsheet to the Commission.

The Commission members reviewed and asked questions regarding the surety fund spreadsheet as presented.

**On a motion duly made by Wilson, seconded by Somers,
it was**

RESOLVED to accept the Executive Administrator's surety report as presented.

All in favor. Motion passed.

Agenda Item 11

Draft New Regulations – Community Association

Commission members agreed to table discussion and drafting of the new regulations for Community Association until the June meeting.

Commission recessed to watch Ethics video at 2:40 p.m.
Commission members watched the Ethics video.
Commission reconvened at 3:07 p.m.

Regulation Tracker- FYI

The Regulation Tracker is given to each Commission member to keep them updated on the status of proposed regulations.

Commission members reviewed and discussed the status of the drafted and proposed regulations.

Dissemination of new information/forms/regulations

Commission members discussed how licensees could be made aware of new forms, changes with regulations and statutes or any changes with the Real Estate Commission.

Ms. Walsh said the best way to disseminate new information to licensees would be through the list serv which would send information to individuals through email which individuals would need to subscribe to.

Ms. Walsh gave the Commission an update on S. Nunes. She said that Ms. Nunes had completed her probation, education, and paid her fine; therefore her license was returned to her.

Mr. Somers said that the Commission should consider looking over the Residential Property Disclosure form again for changes regarding information found after the disclosure form was completed and if an amendment is necessary.

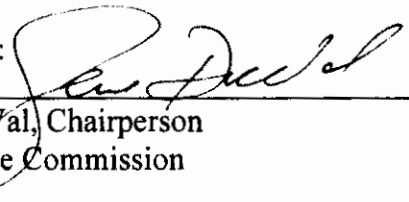
- Next meeting is June 14 & 15, 2007 to be held in Fairbanks.

- The September meeting will be held in Anchorage on September 20 & 21, 2007 in Anchorage or the week prior, September 10 & 11, 2007 if held in Girdwood.
- The December meeting will be held in Anchorage on December 13 & 14, 2007.

Meeting adjourned at 3:32 p.m.

Prepared and submitted by Division Staff.

Approved: _____


Gene DuVal, Chairperson
Real Estate Commission

Date: _____

