

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

TELECONFERENCE MEETING MINUTES
July 20, 2010

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 July 20, 2010, at the Atwood Building, Room 1500, Anchorage, Alaska.

Tuesday, July 20, 2010

Call to Order

Chairperson Bradford Cole called the meeting to order at 10:02 a.m.

Roll Call

Members present via teleconference were:

Brad Cole, Associate Broker, 3rd Judicial District, Chairman
David B. Somers, Broker, Broker At Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District
Nancy Davis, Broker, 1st Judicial District
Chris Swires, Associate Broker, Broker At Large
Marianne Burke, Public Member

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Project Assistant
Michele Wall-Rood, Investigator
Margo Mandel, Investigator

Guests Present:

Chris Kennedy, Administrative Law Judge, Office of Administrative Hearings
Robert Auth, Assistant Attorney General, Department of Law, via teleconference

Staff and Judge Kennedy were physically present at the Atwood Building, Suite 1500. All Commission members were in attendance via teleconference.

Lori Schooley - Request of Reconsideration, Item 1(a)

**REAL ESTATE COMMISSION
MINUTES OF TELECONFERENCE
JULY 20, 2010
Page 2 of 4**

Judge Kennedy stated that there was a little bit of a procedural complication with this issue. Initially Ms. Schooley filed a request for reconsideration in the normal course, within 15 days after the Commission's distribution of their decision and requested for reconsideration on all three counts of her case. However, after the deadline for the reconsideration, 2 more items were filed that were not distributed to the Commission members.

- The first item received after the deadline was a letter from Jerry Royse, Ms. Schooley's expert witness during the proceedings, who raised a variety of issues. One issue was that Commission member Dave Somers should have recused himself from consideration of the case. Mr. Kennedy then had a conference with the parties to get their reaction on how to handle the letter.
- The second item came in after the deadline and conference was an email from Ms. Schooley who also raised a number of issues that relate to the reconsideration, however, submitted after the deadline for moving for reconsideration. She also touched on the suggestion that Commission member Mr. Somers should recuse himself.

Judge Kennedy stated that the two items that were received after the deadline for reconsideration were out of order and should not be submitted for the record and should not be circulated to the Commission members. However, buried in Ms. Schooley's email is a request that Commission member Somers should not participate in this reconsideration. The preliminary issue that the Commission should take up is whether Mr. Somers will participate in this consideration.

Judge Kennedy suggested that the Commission go into executive session for the exclusive purpose to discuss whether Mr. Somers will participate in the proceeding of the actual request for reconsideration.

On a motion made by DuVal, seconded by Swires, and passed unanimously, it was

RESOLVED to go into executive session according to the Administrative Procedures Act to discuss whether Mr. Somers will participate in the evaluation of Ms. Schooley's reconsideration.

Into Executive Session: 10:08 a.m.
Staff (with the exception of Ms. Walsh) left the room.

**REAL ESTATE COMMISSION
MINUTES OF TELECONFERENCE
JULY 20, 2010
Page 3 of 4**

Mr. Auth, Assistant Attorney General, stated that it would be difficult for him to call back and that he may not be able to participate. Margo Mandel said she would call him back.

On a motion made by DuVal, seconded by Davis, and passed unanimously, it was

RESOLVED to come out of executive session.

Out of Executive Session: 10:23 a. m.

Mr. Somers stated for the record that he did not participate in the prosecution of the Lori Schooley case or any related cases. He has no privileged information or knowledge about this case and he feels he can continue to fairly judge this issue.

On a motion made by DuVal, seconded by Swires, and passed unanimously, it was

RESOLVED to go into executive session according to the Administrative Procedures Act 44.62.310 (d) (1) to discuss the matter of Lori Schooley's request for reconsideration.

Into Executive Session: 10:15 a.m.

On a motion made by DuVal, seconded by Davis, and passed unanimously, it was

RESOLVED to come out of executive session.

Out of Executive Session: 10:42 a.m.

On a motion made by DuVal, seconded by Davis, it was

RESOLVED to grant the request for reconsideration for Lori Schooley case #09-06-22 REC.

**Roll Call: Ms. Burke-no, Ms. Swires-no, Ms. Davis-no, Mr. Somers-no, and Mr. DuVal-no. All opposed.
Motion failed.**

**REAL ESTATE COMMISSION
MINUTES OF TELECONFERENCE
JULY 20, 2010
Page 4 of 4**

Old Business – Jan Hood Reinstatement Issue, Item 3(a)

Ms. Walsh explained to the Commission members that she is required to send a Statement of Issues letter to Ms. Hood once her license was denied by the Commission. In that letter it must state why and under what statutes and/or regulations she is being denied a license.

Ms. Walsh asked the Commission members to go on the record through a motion stating why and under what statute and regulation Ms. Hood's license was denied at the June 18, 2010 meeting.

The Commission members discussed the issue of Ms. Hood.

On a motion made by Somers, seconded by Swires, and passed unanimously, it was

RESOLVED that in regards to the Jan Hood reinstatement issue, the purpose of the Real Estate Commission's denial was due to the fact that she falsified her application that was received on June 4, 2010 and that she did not disclose the surrender of her previous real estate license. The authority for the denial is AS 08.88.071(a)(3), AS 08.88.171(c) AS 08.88.401(f)(2)(g), 12 AAC 64.160(a)(b).

The two issues that were unable to be considered at this teleconference, the worksheet for complaint review and the broker substitution issue will be considered at a later time or at the next real estate commission meeting.

On a motion made by Somers, seconded by DuVal and passed unanimously, it was

RESOVLED to adjourn.

Meeting adjourned at 10:55 a. m.

Prepared and submitted by Nancy Harris

Approved: _____


Bradford Cole, Chairperson
Real Estate Commission

Date: _____

9/13/10