

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

**REAL ESTATE COMMISSION  
TELECONFERENCE MEETING MINUTES**

**October 26, 2011**

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled teleconference of the Real Estate Commission was held October 26, 2011 at the Atwood Building, Room 1500, Anchorage, Alaska.

**Wednesday, October 26, 2011**

Call to Order

Chairman Bradford Cole called the meeting to order at 10:08 a.m. at which time quorum was established.

Roll Call

Members present:

Brad Cole, Associate Broker/3<sup>rd</sup> Judicial District  
Anita Bates, Broker/Broker at Large  
Marianne Burke, Public Member

Members present via teleconference:

Charlene Flyum, Public Member  
Nancy Davis, Broker/ 1<sup>st</sup> Judicial District

Member Absent:

Chris Swires, Associate Broker/Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator  
Nancy Harris, Project Assistant

Guests Present via teleconference:

Dave Somers, Legislative Liaison for AAR  
Errol Champion, Licensee member of AAR Legislation Industry Issues

Mr. Cole said that this meeting was scheduled as a work session for the Commission members to discuss the issue about the new licensing fee. This meeting is not open for public comment.

The Commission Chair, Brad Cole, asked member Marianne Burke to enumerate the bullets points of what she would like the Commission to address/discuss at the October 28, 2011 meeting with the Director, Don Habeger.

Ms. Burke said that it is important to get the message out that there is incomplete information circulating and some because the lack of information is incorrect. The issues that we have before us are:

The information that we have been provided on expenditures and revenue for the Commission over the past 2 years in particular and 3 years as an ancillary, and information we have received has indicated that at the last renewal period there was a \$75.00 decrease in the licensing fee. We have no idea what the rationale was, but as a result the Commission lost \$150,000 plus in revenue right there. If you analyze the trend, the cost of investigations and contractual services, whatever that might include, have gone up significantly during the period in which they lowered the revenue. It is one of our primary responsibilities to make sure the information that is being used to make decisions is accurate and complete. In going through some of this information it appears that the fact that this is a biennial renewal has not been considered. You expect the revenue to go up and down because we only receive it once every two years. Had we not had the decrease in revenue and the significant increases that have been recorded there would not be a deficit at all.

As the Commission we need to make it clear, that we need more control over the expenditures that we are being held accountable for. As of now, the only real control we have is over travel. We have done everything we can to reduce those costs. We had to stop going out to licensees in major population areas and have all of our meetings only here in Anchorage. That was really the only thing we could do. We have since learned, what we were informed was that the amount of travel expenditures was less than half of what actually shows up on the budget. The budget is something that we have not been given. We need to have it; otherwise we are operating in the blind. There is a clear lack of definition of roles. Everyone, no matter what they are, everyone needs to know what they are and be aware of what they can and cannot do. We are asking that our Executive Administrator have approval over expenses, since we have to account for them we should review them. This has been a very difficult area for us. For years she had no access to any of the underlying information. We were able to get read only for the recovery fund but not the real estate commission. I know all of you, all of the people out there that are licensees, are very concerned about the increase of expenses, we are too! This Commission has not increased any of its expenses more than just the cost of living. We have no control over what is allocated to us, we have no control over investigation, what is investigated and what is not, we have no control over what is charged to personnel services, we know we only have 3 employees, but we don't know where the rest of the money is. Very simply put, we would like to know the underlying data that supports the numbers on which this increase is based. Right now we do not. That Mr. Chairman is what we need to get across. We are not fighting an increase, or in favor of an increase. We just want to know if it is justified. We have a lot of hard evidence that indicates that it may not be. Remember that everything is based on information that we have reason to have questions about.

Brad Cole- That is an excellent point that we need to make people understand, we as a Commission, are not opposed to an increase if it is justified. Our concern to this point is we have not seen sufficient data to justify or deny anything that has been advocated here. We just want to see better information provided. We have been asking for this information for 3 to 4 years. It hasn't come across in a clear and concise form at this point. This has brought this all to a head because obviously if we go through this cost increase it is going to have a significantly impact on licensees in the state of Alaska; the number of licensees we have and the number of people who will want to come into the business. It certainly hurts us because we have so many areas in the state that are under staffed in terms of licensees that can service the real estate industry and it is important that we deal with this in a very positive way. Mr. Cole wanted everyone to understand that the Commission is not opposed, not fighting anything we are just saying we need more information, more justification for the person who is making the decision on the cost increase.

Mr. Cole asked if any of the members had any comments.

Nancy Davis had a concern regarding a letter that indicates that the Commission has sent some things back to Administrative Law judge because we thought a different sentence was appropriate and then on page 3 it wants to know how the Commission can mitigate the increase of the investigations. She said she finds this a little troubling.

Ms. Burke said that it is extremely troublesome to her too. She said it is not our responsibility to rubberstamp anything. We have a legal responsibility to make sure the proposed penalty is appropriate in the view of the Commission, not the investigator. The investigator is not in the position to decide what punishment is going to be imposed. We have had investigators be very angry because we would not rubberstamp something. She was glad Ms. Davis brought this up because we can't abdicate our responsibility to the investigators. Ms. Burke said that is her personal feeling that over time that our authority has been eroded, that the investigators have taken on more than is really appropriate. This is the time for us to look at, maybe it is appropriate but in her personal opinion, at a minimum to be reviewed and roles clearly defined, by statutes our role is defined and we have to get back to full implementation of that responsibility.

Ms. Davis said that it bothers her a little bit because the Commission had worked really hard with the investigators to try to get the case load down or to get some of the cases closed. It seemed like we were butting our heads against a wall and yet we had a huge increase and I think it has nothing do with any additional people working on the case load.

Mr. Cole said he believes they need to prioritize this in such a way for the meeting

on the 28<sup>th</sup> what are our primary talking points, what is the primary issue that we want to deal with, what do we think is the most important that is going to help make this decision? We don't make the decision but we can certainly influence those who are making the decision based on what our opinion is, based on public comment, and facts. What is the most glaring issue that we need to have addressed?

Ms. Flyum said the two issues that are a concern for her are the administrative expenses that we are paying, what portion of the overhead for the entire department are we paying and what is that covering? Make sure that real estate licensees are not covering the corporations and business licensing programs which are often lumped into that administrative expense. Also, what concerns her is the increase in the investigative expense and for them to explain where that expense came from and defining it a little bit more clearly instead of increase of case load.

Mr. Cole said that part of their frustration is that the only thing the Commission has had control over in the last 3 to 4 years, in the term of expenses have to do their quarterly meetings. We were asked to cut expenses or would be forced to cut the meetings completely. The Commission immediately jumped on that issue and agreed to have all of the meetings in Anchorage because it was less expensive with fewer people travelling. We all bought into the fact that we were going to minimize the time it takes to do these meetings from two days to one day. For the last two years we have not had a meeting that did not beyond one day. That meant longer days, working through lunch if needed and working past five o'clock to get it done. There is no more that we as individuals, as a group, as a Commission can do to reduce costs. It is important to find out what those administrative costs are but it appears that the biggest increase is from the investigative side and the investigative expenses we are seeing. Mr. Cole said that licensees are asking why, what is going on here that the Commission doesn't know what is causing these expenses to skyrocket?

Commission members Davis and Flyum agreed.

Ms. Burke reminded that the Commission provided a list of questions to the Director to help them understand to what is going on. She said she had spoke with the Director and he said that he had not had a chance to read the letter due to a personal emergency and she asked that we provide him with another copy.

Ms. Burke said that two of the important points are addressed in the letter to Don Habeger these will help us understand why. Then we can answer the licensee questions or as we said in the letter, we can't give intelligent feedback on how to reduce costs unless we know the cost drivers are.

Ms. Davis said she doesn't know how the Division can decide to raise or lower the fees without at least communication with the Chair or Executive Administrator of the Real Estate Commission. They had to have known this would create a bit of a

hullabaloo with the licensees. Maybe it was a miscommunication or lack of communication. The same applies for when they lower it by \$75.00 without coming to us and saying we are proposing to us so we could say it is a biennial renewal. This is just a thought. It just doesn't seem right.

Mr. Cole said that we are kind of hearing that some people that feel it is unreasonable for us to get the information that we are asking for. In terms of what is our budget, is there a specific number, what comprises the budget, who allocates the costs that go in there? Right this minute, now as a group, we don't have a clue. Is this what everyone understands as well?

Ms. Flyum said that with the year that she has been on the Commission that every time we have asked for this information the push back has been pretty significant and we have not been able to get clear information and at times almost seemed combative trying to get the information.

Mr. Cole said that there have been times where it seemed that everybody was cooperating and it seemed that we were making headway but just the time we were making headway there was a change with the person in charge, different focuses, someone retired, new people came in and we were always put on the back burner. This has certainly brought all this to a head and it has to be addressed here so that we can go back to the licensees or membership and say look here are the facts, and this is why this is happening. Mr. Cole doesn't think licensees are going to argue with the facts, if it can be justified we are all going to step up to the plate and make the payment but if it can't be justified then let's take different a tact and find out what is right. That is all anyone is asking; what's fair, what's reasonable and we will go from there.

Mr. Cole said that he will prepare a summary of the items that are a concern to us but we will enumerate these from the most important to the least important so that we can talk to the Director on October 28<sup>th</sup>.

Ms. Burke suggested that we put as the number one priority the answer to our questions from the letter and that would help resolve the following issues which would be administrative expenses and investigation. There is an overall systematic problem that is creating these next level problems. The systematic problem is lack of information and transparency.

Ms. Davis asked if the idea for our December meeting to have this on our agenda and allow people to testify?

Mr. Cole said absolutely, if we have a number by then. He said be prepared because we could see a flood of people at that meeting, which is fine. He said he has encouraged everyone that he has spoken to write letters to voice their opinion for or against. He said his focus was to get the 2400 licensees we have to be active and say

something one way or the other.

Ms. Flyum said this seems like a good opportunity to say we need you guys to go back and look at these numbers for a period of time and make sure. She said her issue it is not the increase but that she does not have trust in the numbers that they are putting forward. They have been different on every financial status we have received, there is inconsistencies through out. They need to explain them finally. This may be the time to bring this up. It is time for them to look at the books, all the different people that have touched those books and reconcile them so that they actually make sense. This might be a place to say we don't trust what you are giving us because you have never given us consistent information from meeting to meeting. Even if it takes it beyond the renewal period they end up putting us through to bring this to the forefront that this is an absolute priority of the Commission as a whole.

Ms. Burke asked if the Commission members knew about the legislative committee meeting on Monday. Ms. Walsh said that the Commission members did receive that information in an email today. Mr. Cole said that he will be there to provide testimony on behalf of the REC.

Ms. Burke urged Commission members if they are asked questions about things to explain that we are trying to get answers but this point we don't know for sure. She said she has no problem saying that she doesn't know.

Mr. Cole said that is what is on everyone's mind, why did this happen, why didn't we know more about it. The truth is intentionally or unintentionally we have certainly been in the dark on a lot of this information. That is what we are trying to bring it to the forefront and get it resolved.

Mr. Cole said that the first two primary issues are:

1. Administrative expenses:
  - what percentage we are paying?
  - who allocates those expenses?
  - if there has been an increase, what caused that increase?
  
2. Increase in investigative expense:
  - what is the cause of the increase?
  - who is authorizing expenses?
  - do we need to be more involved with the investigative process?
  - personnel services and other expenses? What they are and why?

Ms. Flyum said that when she says administrative expenses what she is talking about does not mean Nancy, Sharon and Beata. From her prior experience with the Division, each professional license pays a portion of the front desk in Anchorage,

front desk in Juneau, the Director's salary, all the people that work for the Division that support all the programs, you pay a portion. She wants to make sure it is a fair portion and especially in relation to the front desk in Anchorage that deals primarily with Corporations and Business Licensing their only a throughput for the real estate commission paperwork to get the money processed and get the paperwork to Beata or Nancy, that we are paying a fair portion of that in relation to Corporations and Business Licensing and the bulk of what they are handling.

Ms. Burke said that in the Legislative Audit that there are different entities that have not been included and if they are not included we are being over charged but we just don't know how much.

Ms. Flyum said exactly. She would like to bring that to the forefront that we pay our fair share, because we certainly want to pay our fair share we don't want to get out of that, but to make sure we are not paying more than our fair share and to make sure that real estate licensees are not being asked to subsidize other programs.

3. Discuss the systematic problem
  - the lack of information and transparency  
(this needs to be resolved and happen within this timeframe)
4. Go back and reevaluate the numbers
  - Make sure the information they have is correct
  - Make sure the calculation of the numbers is correct
  - The \$685 is correct

Mr. Cole said those will be the four primary issues that will be addressed, of course if anything else come up between now and then he can certainly add to the agenda. He will include the other subject items as well.

Ms. Bates asked the chair if one of those subjects is requesting that the Commission be provided with a budget and have some oversight of that budget as far as how things are allocated.

Mr. Cole said yes and there are a couple specific items about that.

Ms. Burke said that if we are going to have a budget that the Commission should also have an input in developing that budget.

Mr. Cole said that the Commission does need to have input in the development of the budget based on the members experience and expertise.

Ms. Flyum asked to see a trail of the financial renewal fee analysis for the past 3 licensing periods.

On a motion duly made by Ms. Burke, seconded by Ms. Bates, it was  
**RESOLVED** to adjourn the meeting.

**All in favor; Motion passed.**

Meeting adjourned at 10:38 a.m.

Prepared and submitted by Nancy Harris.

Approved:

  
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Bradford Cole, Chairman  
Alaska Real Estate Commission

Date: 12/7/11