

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

**REAL ESTATE COMMISSION
MEETING MINUTES**

August 2, 2024

By the 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 August 2, 2024, at 550 W 7th Avenue, Ste 1550, Anchorage, AK, via Zoom.

Friday, August 2, 2024

Agenda Item 1 - Call to Order

Chairperson Cheryl Markwood called the meeting to order at 9:03 a.m., at which time a quorum was established.

Agenda Item 1(a) – Roll Call

Members Present via Zoom

Cheryl Markwood, Broker, Broker at Large, Chairperson
Traci Heaton, Associate Broker, 1st Judicial District
Elizabeth Schok, Associate Broker, 4th Judicial District
Devon Doran, Broker, 3rd Judicial District
Jimi Cash, Public Member

Members Absent:

Chad Stigen, Associate Broker, Broker at Large

Staff Present:

Nancy Harris, Executive Administrator, REC, Anchorage
Kerry Givens, Project Assistant, REC, Anchorage
Dennis Hines, Investigator, REC/APR, Anchorage
Jennifer Summers, Senior Investigator, Anchorage
Melissa Dumas, Administrative Officer, CBPL, Juneau
Marilynn Zimmerman, Paralegal, CBPL, Juneau
Amy Kennedy, Paralegal, CBPL, Juneau

Guests Present via Zoom:

Errol Champion, Former Liaison for AAR, and Broker of Coldwell Banker Race Realty, Juneau
Francisca Tracy, Compliance Analyst, The CE Shop, CO
Mark Masley, New Liaison for AAR and Salesperson with Realty One Group Aurora, Anchorage
PeggyAnn McConnochie, Broker/Educator with ACH Consulting, Juneau
Gabe Stephen, Broker with Jack White Real Estate, Anchorage
Jerry Royse, Broker/Educator with Royse & Associates, Anchorage
Svannah Melandez, Educator with AK Housing Finance Corporation (AHFC), Anchorage
Susan Baker, public person
Teresa Block, Associate Broker/Educator with Berkshire Hathaway HomeServices AK Realty, Anchorage

Real Estate Commission

Meeting Minutes

August 2, 2024

Page 2 of 12

Yvette Maldonado, real estate educator with AK Housing Finance Corporation (AHFC), Anchorage

Victoria Roberts, Broker/Educator with EXP Realty, LLC, Anchorage

Michelle Scott, Salesperson, Anchorage

Amanda Davis, Associate Broker with EXP Realty, LLC, Anchorage

Paula Laird, Associate Broker with Real Broker Alaska, Anchorage

Agenda Item 1(b) - Approval of 8/2 Agenda

Commission members reviewed the agenda as presented.

On a motion made by Doran seconded by Schok, it was,

Resolved to approve the August 2, 2024, meeting agenda as presented.

There were no opposition. Motion passed.

Statements of Conflicts of Interest/Ethics Violations– 1(c)

There were no conflicts of interest statements or ethics violations to report.

Agenda Item 2 – Public Comments

PeggyAnn McConnochie, a broker and educator with ACH Consulting addressed the Commission regarding her insights on the NAR settlement and stated that it effects all licensees throughout the US, whether licensees are Realtors or not.

She stated that starting on August 17, 2024, NAR agreed to the following:

- First, something that the commission does not have control over: All MLSs must put in place a new rule prohibiting offers of compensation in the MLS; and.
- NAR agreed to require all licensees working with buyers to enter into written agreements with their buyers before viewing a home.

She said these changes, for the most part, do not affect those in property management or commercial so long as, they do not post listings on a residential MLS and offer compensation to those working with buyers or tenants.

Ms. McConnochie said the reason why she is presenting this proposal to the Commission is because real estate commissions in several states have already made changes to provide additional protections to consumers because of multiple lawsuits.

She said this Commission has a unique opportunity to enhance consumer protection by adding a requirement to our regulations. This requirement would mandate licensees have a written agreement with buyers when representing consumers in purchasing real estate. This change strengthens consumer rights and ensures a more transparent and fair real estate market, benefiting the consumer.

She said she is not suggesting mandating a specific form, but she suggested adding in regulations the requirement to have a written contract with a buyer before showing a property.

Ms. McConnochie shared NAR's mandatory provisions of the written agreement which included:

- Specify and disclose the amount or rate of any compensation the licensee will receive from any source or how this amount will be determined.
- The amount of compensation must be objectively ascertainable and may not be open-ended.
- Include a statement that the licensee may not receive compensation from any source that exceeds the amount or rate agreed to with the buyer.
- Disclose in conspicuous language that broker commissions are not set by law and are entirely negotiable and
- Include any provisions required by state law.

Ms. McConnochie said that a regulation change could not add this specificity, and she cannot confidently say that a regulation change requiring a buyer contract will be allowed. However, if Commission does not attempt to make a regulation change, the consumer will be stuck between a disclosure form required by Alaska law (specifically not a contract) and then, outside our law, the requirement for a written buyer agreement to be used by all licensees due to the settlement.

Ms. McConnochie included suggested areas in the real estate regulation for changes under 12 AAC 64.117 Broker Written Policy and 12 AAC 64. 118 Consumer Disclosure.

Jerry Royse, broker and educator with Royse & Associates, gave his support to Ms. McConachie's comments regarding what is needed with regards to the NAR settlement. He said he thought it was a great idea and it makes sense for us to require that it be in writing, and he gave his wholehearted support to Ms. McConachie's position. He would love to get a copy of the document so that we all can teach licensees how to deal with these changes in the industry.

Errol Champion, former Liaison for AAR, and Broker of Coldwell Banker Race Realty said he is waiting for Governor Dunleavy to sign SB179 today. So hopefully SB179 will be a law sometime today.

Mark Maisley, the new legislative liaison for AAR and salesperson with Realty One Group Aurora, said he did not have any comments for the Commission, but is also anxiously waiting for the Governor's signature of SB179.

Ms. Markwood closed public comment at 10:15 am.

Agenda Item 3 – Review of Meeting Minutes

June 27, 2024, Meeting Minutes – 3(a)

On a motion made by Schok, seconded by Doran, it was,

Resolved to approve the June 27, 2024, meeting minutes as presented.

There were no opposition. Motion passed.

Agenda Item 4 – Investigations

Agenda Item 4(a) – Statistic Report

Real Estate Commission

Meeting Minutes

August 2, 2024

Page 4 of 12

Statistical Report – 4(a)

Mr. Hines, Investigator for the Real Estate Commission, presented the investigation statistical report to the Commission. Mr. Hines said for the reporting period of March 05, 2024, through June 3, 2024, there were 20 complaints, 7 matters in intake, 5 matters under investigations, and 3 matter in litigation, and 4 matters were closed from the last report.

License Actions –

Commission members went into executive session to discuss investigative matters.

On a motion duly made by Doran, seconded by Cash, it was,

Resolved to go into executive session to discuss investigative matters.

Roll call vote: Heaton – yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes, and Markwood – yes.

Commission went into executive session at 10:20 am.

Out of executive session at 11:38 am

Consent Agreement - Case No. 2022-000468 – 4(b)

Ms. Markwood stated that the reviewing member for this case was Ms. Schok, and she was removed from executive session during the deliberations on this case.

On a motion duly made by Doron, seconded by Heaton, it was,

Resolved to deny the Consent Agreement in case No. 2022-000468.

Roll call vote: Markwood -yes; Heaton – yes, Doran – yes, Stigen -absent, and Cash- yes. Schok was recused.

On a motion duly made by Doron, seconded by Heaton, it was,

Resolved to request that the consent agreement to be re-negotiated to reflect a \$2500 civil fine, and all other terms remain the same.

Roll call vote: Heaton – yes, Doran – yes, Stigen -absent, Cash- yes, and Markwood – yes. Schok was recused.

Revocation by Default, Case No. 2022-000394 – 4(b)

Ms. Markwood stated that the reviewing member for this case was Ms. Heaton, and she was removed from executive session during any deliberations on this case.

On a motion duly made by Doran, seconded by Schok, it was,

Resolved to adopt the final Order for Discipline by Default in Case No. 2022-000394.

Roll call vote: Doran – yes, Stigen -absent, Cash- yes, Markwood – yes and Schok. Heaton was recused.

The Commission adopted the Order for Discipline by Default in Case No. 2022-000394 to revoke Zachary Sisson's real estate salesperson license #127147.

Imposition of Civil Fine, Case No. 2022-000921– 4(b)

Ms. Markwood stated that the reviewing member for this case was Ms. Heaton, and she was removed from executive session during the deliberations on this case.

On a motion duly made by Schok, seconded by Doran, it was,

Resolved to deny the Imposition of Civil Fine, for Case No. 2022-000921.

Roll call vote: Markwood- yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes. Ms. Heaton was recused.

On a motion duly made by Schok, seconded by Doran, it was,

Resolved to convert the Imposition of Civil Fine, Case No. 2022-000921, to a Consent Agreement with the following terms: 5,000 civil fine, 2- years' probation, and 4 hours of additional continuing education, to include 2 hours in licensing relationships and 2 hours in prohibited conduct.

Roll call vote: Markwood- yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes. Ms. Heaton was recused.

Agenda Item 5 – Old Business

Revisit Reinstatement of License -D Lorah 5(a)

On a motion duly made by Doran, seconded by Schok, it was,

Resolved to un-table the reinstatement application of Dustin Lorah from the June 27, 2024, meeting.

No opposition. Motion passed.

On a motion duly made by Doran, seconded by Heaton, it was,

Resolved to approve the reinstatement application of Dustin Lorah, license number RECS18205 and case no. 2022- 000981.

Roll call vote: Schok -yes; Doran – yes, Stigen -absent, Cash- yes, Markwood – yes, and Heaton- yes.

The Commission approved the reinstatement application for Dustin Lorah.

The Commission recessed for break at 11:48 a.m.
The Commission reconvened at 12:00 p.m.

Regulation Project – review public comments - 5(b)

Commission members reviewed and discussed the 2 written public comments received.

The first written comment asked that the in the Property Disclosure form if the word “defects” could be added to the Structural Components as well. in bold as “known defects or malfunctions”.

The Commission members reviewed and discussed the written comment and decided that no changes were needed with Structural Components.

The second written comment the Commission members took into consideration was also on the Property Disclosure form, page 7, item number 6, the person who made the comment asked if under “If yes, is there a recorded agreement?”, suggested to remove the word “recorded”. The person who made the comment said that if it is recorded it will turn up during the title search, but if it was not recorded, it could still be valid.

The Commission members reviewed and discussed the written comment and decided to make the suggested change and on page 7, item number 6, of the Property Disclosure form, and removed the word “recorded” and add the word “written”. The sentence for item number 6 will now read, “If yes, is there a written agreement?”

On a motion duly made by Heaton, seconded by Schok, it was,

Resolved to adopt the State of Alaska Residential Real Property Transfer Disclosure Statement form 08-4229 as amended, on page 7, item 6, change the word “recorded” to “written”, If yes, is there a written agreement?

Roll call vote: Heaton – yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes, and Markwood – yes.

On a motion duly made by Heaton, seconded by Schok, it was,

Resolved to adopt the proposed changes to State of Alaska Residential Real Property Transfer Disclosure Statement form 08-4229 as amended and as previously noticed with 12 AAC 64. 930.

Roll call vote: Heaton – yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes, and Markwood – yes.

On a motion duly made by Doran, seconded by Schok, it was,

Resolved to adopt the proposed changes to State of Alaska Residential Real Property Transfer Disclosure Statement form 08-4229 as amended.

Roll call vote: Doran – yes, Stigen – absent, Cash – yes, Markwood – yes and Heaton – yes.

On a motion duly made by Heaton, seconded by Doran, it was,

Resolved to adopt the proposed regulation project, 2023200418, as publicly noticed and amended.

Roll call vote: Markwood – yes and Heaton – yes, Schok- yes, Doran – yes, Stigen – absent, Cash – yes,

FY 2023/2024 Strategic Plan- update – 5(b)

Ms. Harris gave an update on the 2024 REC strategic plan. She stated the items that were completed since the last meeting and were deleted from the strategic plan.

The Commission added 3 items to the 2024 strategic plan:

#8- committee to create a regulation with regards to the requirement from the NAR Settlement that licensees working with a buyer must have a buyers agreement completed and signed before showing a home.

#9- the disciplinary matrix – to review and make possible changes

#10 –review the length of time between application for reinstatement of license.

Ms., Markwood stated the strategic plan is a roadmap for the REC to move forward, and it helps us to keep focused on our tasks. It is a very useful tool to have to work through on a regular basis.

Agenda Item 7 – New Business

Board of Trade Real Estate School – Course 16599 – 7(a)

The Commission discussed and considered the retroactive approval for the students who completed the Pre-Licensing Salesperson course, #16599, that was given by The Board of

Real Estate Commission

Meeting Minutes

August 2, 2024

Page 8 of 12

Trade Real Estate School owned by David Pruhs. Mr. Pruhs thought this course was approved with a 4/1/2025 expiration date; however, that was the expiration date of his instructor certification. The course, 16599, was not renewed and was expired from 2/1/2022 through 1/31/2024. Mr. Pruhs' instructor certification was current. There were several students that completed the course between 2/1/22 and 1/31/2024.

On a motion duly made by Schok, seconded by Doran, it was,

Resolved to retroactively approve course #16599, for April 2022 through December 2023 for all students.

Roll call vote: Doran- yes, Stigen -absent, Cash- yes, Markwood- yes, Heaton-yes and, Schok -yes

Agenda Item 6 – Division Update

Revenue/Expenditure Report, FY24/3rd Qtr – 5(a)

Melissa Dumas, Administrative Operations Manager for the Division of Corporations, Business, and Professional Licensing, presented to the Commission the Revenue and Expenditures report for the FY2024 1st - 3rd Quarter, through March 2024. This report is showing 3 closed biennium, FY18 & 19, FY20 & 21, FY 22-23, and this biennium FY24-25. She stated through March 2024 the program brought in \$176,875 in licensing revenue. No general funds or 3rd party reimbursements monies were received during this time. Non-investigative expenditures received were \$142,721, and the investigative expenditures received were \$159,207 for a total of direct expenditures as \$301,928. The indirect expenditures, this includes administrative, Department and statewide costs) were \$152,326 with the total expenditures as \$454,254. The beginning cumulative surplus was \$960,070 and the annual decrease was 277,379 to give an ending cumulative surplus of \$682,691.

A fee analysis will be presented at the next meeting.

Agenda Item 7 – New Business, cont'd

New Legislation, HB 134/SB179– 7(b)

This information was for the Commission to see the final language for SB179 that passed this legislative session. SB179 was expected to be signed by the Governor today.

Proposed Regulations from work meeting – 7(b)

Mr. Givens went over some possible revisions of regulations from the topics that were discussed at the May 15, 2024, work meeting. Mr. Given also spoke about office requirements to include signage for possible regulation changes as well. The regulations that were created or revised were presented to the Commission for their consideration were:

12 AAC 64.065, License Required for Employees, Directors, Agents and Officers, changing the word "corporations" to "entity" for clarification.

Real Estate Commission

Meeting Minutes

August 2, 2024

Page 9 of 12

12 AAC 64.075- Employment and Transfer, adding a new section giving a time frame to work while waiting for a change of broker or associate broker in charge for an office change.

12 AAC64.078-Temporary Absence of Broker of Record, with some clarifying language for “persons” in (b) (2).

12 AAC 64.600- insurance required, adding language to require E & O Insurance with a transfer and inactivation of a license as well as initially and with renewal and to add a requirement to audit licensees for compliance of E & O Insurance.

12 AAC 64.610 Time for Filing Certification of Equivalent Coverage add language to require E & O Insurance with a transfer and inactivation of a license as well as initially and with renewal.

12 AAC 02.530 – Standards for Equivalent Coverage and 12 AAC 02.540- Notification required for Cancellation, these can only be recommendations because these are Division regulations.

Ms. Markwood suggested a second work meeting to review and work on signage, broker supervision requirement, advertising, virtual offices compared to principal offices, reinstatement Broker PLE, and NAR settlement.

Staff to provide Commission members a number of options for dates to choose from to schedule another work meeting after the September meeting.

ARELLO 2024 Annual Conference, Chicago, IL Sept 23-26, 2024 – 7(d)

Ms. Harris stated that the Commission no longer is required to approve staff to attend the ARELLO conference. The Commission would only need to approve if any of the Commission members would like to attend the ARELLO conference. The new Commission member Mr. Cash stated that he would be interested to attending the Commissioner College 101 course that is available at the 2024 ARELLO Conference.

On a motion duly made by Doran, seconded by Schok it was,

Resolved to approve for Commission member Jimi Cash to attend the 2024 ARELLO Conference and Commissioner College in Chicago, IL, September 23, 2024, through September 26, 2024, if approved by the Division.

No opposition. Motion passed.

September 17, 2024, REC meeting – 7(e)

The Commission agreed to have the September 17, 2024, REC meeting via Zoom, not in person.

Train the Presenter course – 7(f)

The Anchorage Board of Realtors came to the Executive Administrator and asked if a Train the Trainer course could be approved for credit. The Executive Administrator misunderstood and thought the course was sponsored through NAR which one of the sponsors listed in the regulation, 12 AAC 64.440(d), that can provide the Train the Trainer workshop that licensees

can complete and receive credit. However, after the course was completed, the Executive Administrator realized the course was sponsored by Anchorage Board of Realtors and the instructor was not approved. The Executive Administrator heard from other education providers and students that it was an excellent course. Several individuals attended this course specifically to become an approved instructor and use the completion of the course in lieu of their teaching experience. Ms. Harris requested that the Commission consider retroactive approval for those individuals who completed the Train the Presenter course on 4/4/2024.

On a motion duly made by Doran, seconded by Schok, it was,

Resolved to approve the Train the Presenter course offered by the Anchorage Board of Realtors,

Roll call vote: Heaton – yes, Schok -yes; Doran – yes, Stigen -absent, Cash- yes, Markwood – yes.

Agenda Item 8 – Executive Administrator’s Report

Licensing/Education Report/ Statistics – 8(a)

Mr. Givens presented the licensing report for to the Commission. He reported that between, March 5, 2024, through Jun 6, 2024, there were 81 new licenses issued; 284 active licensees, 2903 total number of licensees with an 1/31/2026 expiration date; 12 inactive licensees; 11 lapsed licenses due to non-compliance of Post Licensing Education (PLE); 150 transfers; 69 licensees completed their PLE requirements and 22 licensees in a license returned status.

Mr. Givens presented the education report for June 19, 2024. He reported that as of 6/4/2024, there were 16 pre-licensing courses; 4 broker upgrade courses; 277 elective (ECE) and 62 designated (DCE) courses and 55 Post Licensing courses with a total of 414 approved courses. There were 10 initial courses approved between 3/6/24 and 6/4/2024.

There are a total of 110 instructors. There were 10 new instructors from the last report, and no temporary instructors.

Recovery Fund Balance Report – 8(b)

Ms. Harris presented the Recovery Fund Report ending March 31, 2024. The Commission received \$41,660 in revenue for license fees processed with a total revenue at \$47,165 and \$31,567 total expenditures for the year. The beginning year balance was \$380,792 and the end of year fund balance of \$396,389. The projected end of year balance for the fiscal year ended 6/30/24 is \$392,637.

Agenda Item 9 – Commission Member Comments & Questions

Ms. Doran thanked everyone for all their hard work and said it was great getting business done. She said it is great to have Jimi on the Commission so we can have more votes and make progress. She is looking forward to working on the regulation project regarding the settlement

Ms. Schok said she echoed what Ms. Doran said. She said it is nice to get some business done and be able to check items off the strategic plan. She is excited about the new things that the

Real Estate Commission

Meeting Minutes

August 2, 2024

Page 11 of 12

Commission will be working on, and everyone's hard work is very much appreciated. She welcomed the new Commission member Jimi and said it is great to have him on the Commission.

Ms. Heaton welcomed the new Commission member Jimi. She said it is great to have more Commission members and hopefully the last seat will be filled. She said she is excited about the consumer disclosure moving forward and looks forward to using it once it is out of draft form.

Ms. Cash said thank you. He said it is a lot to take in since he was just appointed 2 days ago. He said it was nice to see so much knowledge in this group and how you really understand your industry. He said he is happy to be a part of this Commission.

Ms. Markwood said she would like to reiterate that it is huge that the Commission got the consumer disclosure alone completed. It has been a 3–4-year project! She said she is proud for all members for all their hard work on the regulation project and getting through it. She said that not only is the Commission addressing elections at the next meeting, but they also are going to make the schedule for the upcoming year, so please look at your calendars. She said it is great having Jimi on the Commission. The Commission appreciates Jimi being here with us and being a public member, to keep us in place because our goal is always to represent the consumers as well. Lastly, Ms. Markwood said the next project is going to be a huge undertaking. There have been a lot of components added to the next work session. However, this regulation project will be very, very beneficial to both our industry and the public. She thanked everyone for their time and energy moving forward.

Ms. Harris thanked all the Commission members for their time and hard work She said she knows it is a lot and staff appreciates all their time and work. She thanked and welcomed the new Commission member, Jimi, for jumping right in the meeting so quickly.

Ms. Givens welcomed Jimi on the Commission and let him know if there is anything staff could help him with, don't hesitate to reach out. He thanked the Commission members for listening to some of staff's thoughts on adding work to their plate. It is important information to look into an give the Commission the best tools we can.

Ms. Markwood asked that forms go out to the industry as soon as possible and that links are great but also make available the actual forms.

Adjournment

On a motion made by Doran, seconded by Schok, it was,

Resolved to adjourn the meeting.

There were no opposition. Motion passed.

Meeting adjourned at 1:23 pm.

Next meeting: September 17, 2024.

Prepared and submitted by:
Real Estate Commission Staff

Approved:

Cheryl Markwood

Cheryl Markwood
REC Chairperson
Alaska Real Estate Commission