

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

**MINUTES OF MEETING  
March 13 & 14, 2006**

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 March 13 & 14, 2006, 9<sup>th</sup> State Office Building, Conference Room A, Juneau, Alaska.

**Monday March 13, 2006**

**Agenda Item 1      Call to Order**

Chairperson Barbara Ramsey called the meeting to order at 9:00 a.m.

**Roll Call**

Members present constituting a quorum were:

Barbara Ramsey, Associate Broker, 3<sup>rd</sup> Judicial District  
David B. Somers, Broker at Large  
Gene DuVal, Associate Broker, 4<sup>th</sup> Judicial District  
Bradley Fluetsch, Public Member  
Roger Stone, Broker, 1<sup>st</sup> Judicial District  
Tim Worthen, Public Member

Members absent (excused):

Rita Wilson, Associate Broker, Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator  
Nancy Harris, Licensing Examiner  
Cathy Mason, Administrative Manager

Guests present via teleconference

David Stebing, Administrative Law Judge  
Margo Mandel, Investigator  
Teresa Thacker, Publication Specialist

Guests present:

Larry Bauer, Broker, Bauer & Gates Realty

Duane Gates, Salesperson, Bauer & Gates Realty  
Terri Thurbon, Administrative Law Judge

**Agenda Item 2**

**Judge Stebing- Office of Administrative Law**

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

**RESOLVED to go into executive session  
regarding Surety Fund Claim S-23-012 in  
accordance with AS 44.62.310(d) (1).**

**All in favor. Motion passes.**

Commission went into Executive session at 9:05 a.m.

**On a motion duly made by Stone, seconded by Fluetsch,  
it was**

**RESOLVED to come out of executive session  
and go back on the record.**

**All in favor. Motion passes.**

Commission out of Executive session at 9:12 a.m.

**On a motion duly made by Fluetsch, seconded by Stone,  
it was**

**RESOLVED to accept the recommendation of  
the Administrative Law Judge in Case 2-23-012.**

**All in favor. Motion passes.**

**Approval of Agenda**

The Commission members discussed the changes to the agenda. Ms. Walsh said that Attorney General Gayle Horetski, for agenda item 7, would not be available at this meeting. The Commission members could email questions to Ms. Walsh for her at a later date or the next meeting. Add the Vista Referral Center issue as agenda item 8e. Add definition of vocation and incidental under agenda item 41a.

**On a motion duly made by Fluetsch, seconded by  
DuVal, it was**

**RESOLVED to approve agenda as amended.**

**All in favor. Motion passes.**

**Agenda Item 3**

**Approval of Minutes**

The Commission members handed their corrections of the minutes in to Ms. Harris for correction. The corrections for the December 1, 2005 minutes were:

Page 3 – Public Comment -first sentence, after the word regarding, add “if” and put a space between formalizing and an.

Page 4 – second paragraph fourth sentence delete the apostrophe, last sentence of page change “where” to “were”.

Page 5 – first paragraph, second sentence, change the word “where” to “were”, seventh sentence, change “our program” to “their program”, tenth sentence, change the word “following” to “using”.

Page 6 – Agenda item 2, second paragraph, ninth sentence, add a “t” to no, for the word not, next sentence, the word sometime is two words.

Page 8 – middle of first paragraph, delete the “the” for “HUD and under the”, ninth sentence from the bottom of first paragraph, “charitable or community service... delete the word “not”, to read, “ought to be required”

Page 10- second paragraph, seventh sentence, change the word “office” to official”.

Page 11- third paragraph, change Mr. Rogers to Mr. Stone, fifth paragraph, change Mr. Rogers to Mr. Stone and delete not and add “if”, seventh paragraph, change Mr. DuVal to Mr. DuVal and change “up most” to “utmost”.

Page 12 – in the motion complete the year “2005”

Page 16 – first paragraph, second sentence, delete “there” add “it”, delete “a”, last paragraph, second to the last sentence, “where to” and add “ing” to tell.

Page 19 – second paragraph, change “a public member” to “a member of the public”.

The corrections for the January 26, 2006 minutes were:

Page 2 – first motion change the second “Fluetsch” to “Somers”, delete the second motion, and add “Motion fails due to lack of second.”, on the third motion fourth sentence change the word “noted” to “probation” and change “that” to “completion”.

No corrections to the December 29, 2005 meeting minutes.

**On a motion duly made by Stone, seconded by Fluetsch,  
it was**

**RESOLVED to approve the December 1, 2005,  
December 29, 2005, and January 26, 2006  
meeting minutes as revised.**

**All in favor. Motion passes.**

**Agenda Item 4**

**Public Comment**

Larry Bauer and Duane Gates with Bauer & Gates Realty addressed the Commission with issues regarding condo associations. Mr. Bauer and Mr. Gates asked the Commission to consider a change or make a recommendation to change the statutes/regulations to:

- Require that resale certificates be issued when a common interest community property (condominium) is listed so that it is part of the disclosure.
- Should the resale certificate become more than 60 days old, the financial statements must be updated by the association.
- The Association be required to provide standard terms, adequately reserved, under reserved, severely under reserved and critically under reserved, as well as a signed statement as to what the reserve status is and also address the potential impact
- Increase the education for licensees in the sales of community association, to include how to read and understand resale certificates, financial statements and other required documents such as declarations. Recommendation of 4 hours of continuing education of training in Community Association Law, Resale Certificates and documents.
- Special certification of those licensees providing more than occasional property management services. Recommendation of 40 hours of additional training approved by the Commission. Brokers of property management have 2 years in the last five years of experience as a property manager as well as the 40 hours of the additional education.

The Commission discussed and agreed that there needed to be more education for property management/association management/sales/

condo associations. They would consider statute/regulations changes for property management/association management and would look into the standard terms and definitions. Also, the Commission members agreed to amend the disclosure statement regarding: Are any levied or pending assessments, and who is responsible for issuing the resale certificate.

**BBP – Order the resale certificate as soon as the listing or the purchase agreement is signed.**

The Commission recessed for break at 11:00 a.m.  
The Commission reconvened from break at 11:05 a.m.

**Agenda Item 5**

**Investigator Report**

**Statistics**

Margo Mandel presents her statistical report for the period November 21, 2005 through March 10, 2006 to the Commission.

She informed the Commission that there were no un-addressed, outstanding cases of unlicensed or unauthorized practice

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

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

**RESOLVED to accept the investigator's report.**

**All in favor. Motion passes.**

**Memorandum of Agreement-S.Nunes**

Margo Mandel presented the Memorandum of Agreement for S. Nunes. The Commission members reviewed and discussed the Nunes MOA as presented.

**On a motion duly made by Fluetsch, seconded by DuVal, it was**

**RESOLVED to accept Memorandum of Agreement for S. Nunes.**

**All in favor. Motion passes.**

- **Prohibited from accepting a referral fee for business for business originated after the date of suspension. AS 08.88.401(d).**

#### **Agenda Item 6**

##### **Review Muldoon Realty Contract**

Margo Mandel gave some background information to the Commission regarding the Muldoon Realty Contract. She said that she had received a complaint regarding Muldoon Realty some time ago and submitted this promise to purchase incentive plan to the AG's office for a legal interpretation. The AG's legal interpretation was that this was not a purchase incentive plan, because they are not tying it to the use of Muldoon Realty licensees. However, if that changes and they required the use of their licensees to fulfill the contract then it would become a purchase incentive plan.

The Commission members discussed and asked questions to Ms. Mandel regarding Muldoon Realty contract.

##### **Fingerprinting**

Margo Mandel presented to the Commission members the need for fingerprinting of applicants. She said she is strongly in favor of fingerprinting. She believes that real estate commission is severely lacking and behind the times in this area by not screening criminal backgrounds of applicants. She said that the Real Estate Commission could eliminate a lot of problems on the front end by requiring fingerprinting. She explained that the nursing, medical, pharmacy and dental boards already do fingerprinting. Real Estate Appraisers have introduced legislation to include fingerprinting. Ms. Mandel said that the boards that already have fingerprinting charge a \$25 fee, they are sent off to FBI and then the report is sent back to them.

The Commission members discussed the option of fingerprinting real estate licensees. They agreed that there is a need for criminal background checks for licensees.

The Commission directed staff to bring back more information regarding fingerprinting and where to put a modification in statutes and/or regulation.

The Commission directed Ms. Mandel to prepare examples of complaints similar to the handout, "The Top 10 Complaints Received by the Real Estate Commission", by Pamela V. Millward, Associate Legal Counsel.

Gayle Horetski- Assistant Attorney General

Ms. Horetski was unavailable, but the Commission will put this issue on their next agenda if not able to talk to her tomorrow.

Commission members discussed the issue of the compliance of the Consumer Pamphlet.

The Commission decided to put in the Newsletter that within the next year the Real Estate Commission will conduct a random sampling of compliance of the consumer pamphlet. This issue will be put on the next meeting agenda to discuss the logistics on how this will be completed. The Commission members chose the example that a member of the public spoke with a licensee on the phone and talked about specific property, financing, and confidential information. They set up an appointment and at the property the licensee never disclosed whom she was representing. AS 88.615(6-7).

The Commission recessed for lunch at 12:05 p.m.

The Commission reconvened from lunch at 1:40 p.m.

**Agenda Item 8**

**Licensing Examiner's Report**

Statistics Report

Ms. Harris presents her statistical report for the period of November 15, 2005 through February 28, 1006 to the Commission. She said there were 113 new licensees, 2259 active licensees with a 01/31/08 expiration date and the total number of licensees is 2,283, to include active and inactive. There have been 63 reinstatements of licensees who allowed their license to lapse. She said for those under the new law that requires 20 hours of Post Licensing Education is 44 Salespeople, 7 Associate Broker and 1 Broker.

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

**RESOLVED to accept the licensing examiner's report.**

**All in favor. Motion passes.**

Remote Site Application, L. Doughty

Licensing Examiner Nancy Harris presented to the Commission an individual requesting remote supervision. L. Doughty is living in Nome and is requesting licensure through an office in Fairbanks.

The Commission members reviewed and discussed the remote request.

**On a motion duly made by Stone, seconded by Fluetsch, it was**

**RESOLVED to accept the remote site application for L. Doughty.**

**All in favor. Motion passes.**

Remote Site Application, J. Crump

Licensing Examiner Nancy Harris presented to the Commission another request for remote supervision. J. Crump is living in Kenai and requesting to be licensed through an office in Anchorage.

The Commission members reviewed and discussed the request of J. Crump.

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

**RESOLVED to deny the remote site application for J. Crump.**

**All in favor. Motion passes.**

Staff to send a letter to broker: Denied request because it does not meet the criteria for remote supervision. He may not have a branch office in Kenai, however, the licensee can live and work in Kenai as long as he is operating from the Anchorage office under the letter dated 02/8/06 that outlines his supervision.

Break in Salesperson Service

Jonathan Powell, Muldoon Realty, Anchorage

Licensing Examiner, Nancy Harris, presented to the Commission a letter from Mr. Powell explaining his break in service. Mr. Powell's license lapsed 02/01/06 and he was expecting to become the broker of Muldoon Realty as soon as he had his two years of licensee experience and passes his broker exam. He was first licensed August 4, 2004.

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



**RESOLVED to deny the request for Mr. Powell.**

**All in favor. Motion passes.**

Doug Welton, ReMax Associates, Fairbanks

Licensing Examiner, Nancy Harris, presented to the Commission a letter from Doug Welton asking for a reconsideration of his break in service. Mr. Welton's license lapsed 02/01/06.

**On a motion duly made by Fluetsch, seconded by Stone, it was**

**RESOLVED to deny the request form Mr. Welton (12 AAC 02.900(a)).**

**Five members in favor; one member recused (DuVal).**

Surrender Advertisement for Sang Kang

The Licensing Examiner presented to the Commission members a copy of the advertisement that was published in the Anchorage Daily News for the surrender of Sang Kang.

The Commission recessed for break at 2:10 p.m.

The Commission reconvened from break at 2:25 p.m.

Vista Referral Center

The Vista Referral Center issue was presented to the Commission in regards to their request for change of broker and change of entity. Vista Referral Center believes that they do not have a change of entity but only a change of broker. The change of broker would only require Vista Referral Center to complete an office changes form and pay \$30.00 per licensee in the office. The change of entity would require them to close the referral office, complete an office registration form to open a new office under the new entity with a \$125.00 fee and each licensee would be required to complete a transfer form and pay a \$50.00 fee. The Commission members reviewed and discussed the Vista Referral Center issue.

**On a motion duly made by Stone, seconded by Fluetsch, it was**

**RESOLVED that the issue is turned over to the investigator along with a copy of the 5/3/05 letter regarding the Vista Referral Center. The REC**

**reaffirms the AG's position as stated in the 5/3/05 letter and asks the investigator to resolve the issue as soon as possible.**

**All in favor. Motion passed.**

**Agenda Item 12b**

**Online Renewal IT & Fiscal Information**

**Real Estate Revenue/Expenditure**

Cathy Mason, the Accounting Technician for Occupational Licensing, went over the Real Estate Revenue/Expenditure and Surety Fund report with the Commission members.

The Commission members discussed and asked questions regarding the reports as presented.

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

**RESOLVED to accept the Real Estate Commission & Surety Fund reports.**

**All in favor. Motion passes.**

**Agenda Item 10**

**Education/Publication Specialist Report**

**Regulation Tracker**

Teresa Thacker reviewed the regulation tracker with the Commission members. She explained that the regulation tracker was a way to track the proposed regulations through the complete process.

**Proposed Regulation Change 12 AAC 64.930**

Ms. Ramsey presented to the Commission a regulation change on the disclosure statement to add information regarding meth lab by products.

The Commission reviewed and discussed the proposed changes and also about adding information regarding resale certificates.

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

**RESOLVED to adopt the regulation change recommended by staff and add "Are any levied or pending assessments? Who is responsible for issuing the resale certificate? Name & number"**

**under Title #5 to the property disclosure statement (12 AAC 64.930).**

**All in favor. Motion passes.**

Mr. Somers brought to the Commission's attention HB 149, regarding controlled substances.

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

**RESOLVED to direct staff to write a letter that the REC supports the stand alone meth lab bill (HB 149) because of the eminent health danger to the public when purchasing homes and urges the legislature to separate out the meth lab issue from the more controversial issue of marijuana in an effort to move the issue along.**

**All in favor. Motion passes.**

**On a motion duly made by Ramsey, seconded by Stone, it was**

**RESOLVED to have staff draft recommendations to further define the circumstances that justify a Waiver of the property disclosure under as AS 34.70.110.**

**All in favor. Motion passes.**

Education Database

Ms. Thacker presented a screen shot of an approved course from the continuing education catalog and pointed out to the Commission members the added features. Ms. Thacker suggested to the Commission that a Better Business Practice section be added to the web site would be a great addition to our web site and it would set our web site a part from others. She asked for the Commissions recommendations on how they would visualize it to look.

**The Commission directed staff to create under licensee section: FAQ (with the question than the BBP would be the answer.) To clarify: this is for the licensee and not the public, under licensee section.**

List Serve

Ms. Thacker presented to the Commission a graph of the growth of the individuals currently on the list serve.

Education Advisory selection & update

Barbara Ramsey updated the Commission members on her selection process of the Education Advisory Group members.

Bon Voyage Teresa!

The Commission members thanked Teresa for all her hard work and wished her good luck. The Commission members agreed to write a thank you and good luck letter to Teresa.

The Commission recessed for break at 4:10 p.m.

The Commission reconvened from break 4:18 p.m.

**Agenda Item 9**

**Executive Administrator's Report**

Surety Fund Report

Sharon Walsh presented her surety fund report verbally to the Commission. There are 9 surety fund claims for this fiscal year, 2 cases have been withdrawn, and 1 case was dismissed.

Commission members discussed and asked questions regarding the report presented.

Ms. Walsh explained the process and payment of a surety fund claim.

Surety Fund Balance Report

The Surety Fund Balance Report was unavailable at this meeting but will be on the next meeting agenda.

REC Renewal status: Online vs. Mail In

Sharon Walsh presented the renewal statistics as of January 31, 2006 to the Commission members. She said that 2250 renewal notices were sent out November 2005. The total of real estate licenses that were renewed was 2113. 1300 (62%) licensees renewed online and 813 (38%) mailed their renewal forms into the Commission.

REC Audit Statistics

Sharon Walsh presented the continuing education audit statistics to the Commission members. She said 199 continuing education audit notices were sent out and 107 licensees complied with the continuing education audit to date 03/09/06. She said there are 92

licensees that have not complied and they will be sent a certified letter and will be required to respond within 10 days. Two licensees were found to be out of continuing education compliance and were forwarded to the Division paralegal for a Memorandum of Agreement.

#### HB 409

The Commission members discussed HB 409 regarding excluding qualified real estate licensees from worker compensation.

The Commission directed staff to send a letter to the legislature that the Real Estate Commission supports this bill.

#### HB 318

The Commission members discussed HB 318 regarding limiting the exercise of eminent domain. Mr. DuVal said this bill is regarding eminent domain for commercial development because it is good for our economy

#### Advertising Enticements

Ms. Walsh presented to the Commission two of many advertisements that licensees have asked the Commission office to look into. The Commission members discussed the enticements in advertising.

#### HB 462

The Commission members directed staff to send a letter that the REC does not support the bill as proposed because it is to broad an exemption. This exemption leaves the most vulnerable members of the public exposed because regardless of profit or non-profit:  
(Talking points)

- 1) A license is required for that type of activity in all other contexts.
- 2) The activities they perform: Leases, trust funds etc – are all the functions that require a license.
- 3) Senior citizens, who may be at/in the early stages of mental incapacity – who will protect them or regulate the activity of those individuals?
- 4) Licensing allows for broker supervision and education for compliance of statutes and regulation; and ensures good business practices.
- 5) Not licensing eliminates access to the Surety Fund as an avenue for a claim.
- 6) Issues of concern are fraud, deceit, misrepresentation, conversion of trust funds – potentially a large block of money, which could be at risk.

- 7) The requirement to have a licensed employee or independent contractor would not be a financial burden. Anticipated cost is nominal, while the benefits to the public for protection are great as outlined above.
- 8) The REC provides the ideal avenue to regulate and make the determination if the issue is “incidental” and/or “vocation”. The REC is currently working on clarifying the definitions of “incidental” and/or “vocation”.
- 9) This is anticipated to be a growing industry stimulated by baby-boomer retirements, which needs to be looked at carefully.

We are in the process of addressing the definitions and limits of the terms of “incidental” and “vocation” that are outlined AS 08.88.900 (9) (9a). If time permits, members of the REC will see if they can meet with the sponsor of the bill. (Bradley – local contact, Roger– property management/association management liaison to follow up)

#### Advisory Group of Property Management Regulations

The Commission members discussed setting up an advisory group for property management/association management regulations and statutes.

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

**RESOLVED to form an advisory group to look at formulating property management/association management statutes/regulations (to include article 9), and definitions (to include incidental and vocation) and provide recommendations to the REC the Dec meeting. Group to be structured along the same guidelines as the current education advisory group. Roger Stone liaison for REC.**

**All in favor. Motion passes.**

The status of HB 462 was that it was still in Labor and Commerce.

List of legislators that each Commission member would be willing to contact:

Chair Anderson (T. Worthen), Kott (T. Worthen),  
LeDouex (B. Fluetsch), Rokeberg (D. Somers),  
Crawford (B. Fluetsch), Guttenberg (D. Somers).

The Commission recessed at 5:35 p.m. until tomorrow, March 14, 2006 at 9:00 a.m.

**Tuesday, March 14, 2006**

**Call to Order**

Chairperson Barbara Ramsey called the meeting to order at 9:05 a.m.

**Roll Call**

Members present constituting a quorum were:

Barbara Ramsey, Associate Broker, 3<sup>rd</sup> Judicial District  
David B. Somers, Broker at Large  
Gene DuVal, Associate Broker, 4<sup>th</sup> Judicial District  
Bradley Fluetsch, Public Member  
Roger Stone, Broker, 1<sup>st</sup> Judicial District  
Tim Worthen, Public Member

Members absent (excused):

Rita Wilson, Associate Broker, Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator  
Nancy Harris, Licensing Examiner  
Cathy Mason, Administrative Manager

Guests present via teleconference:

David Brower, Assistant Attorney General  
Terri Therbon, Administrative Law Judge  
Donald Zimmerman, IEC Realty  
Connie Wood-Harris, Gallery Homes Real Estate

**Agenda Item 12**

**Online Renewal IT & Fiscal Information**

Cathy Mason, Administrative Manager, went over with the Commission members the online renewal procedure and statistics. She said that there were 1636 online renewals, 1554 successful of which 222 of those were successful had to make more than 1 attempt; 82 were not successful for a number of reasons (5.10%). Two different verification statements – print receipt or link. The credit card company is required to refund within 3 days if there was a failed attempt. The Division is looking at ways to improve the process with email acknowledgements on refunds; more

information on screens; UAT; removing the continued screen and go directly to the receipt. However, there are limited resources within the state. She said that 2 individuals failed to complete the process and will be heard later in the meeting. The process online is the same as submitting hardcopy.

Commission members discussed the online renewal procedure.

The Commission recessed for break at 9:30 a.m.

The Commission reconvened from lunch at 9:37 a.m.

#### **Agenda Item 11**

##### **Office of Administrative Hearing Training**

Terri Therbon, Chief Administrative Law Judge for the office of Administrative Hearings, addressed the Commission. Ms. Therbon explained to the Commission that her office has been conducting real estate, licensing/disciplinary actions and surety fund hearings for little over a year. The first six months of the consolidation of their office, they conducted hearings during the transition where the Department of Commerce contributed their hearing unit to the central panel function along with Departments of Administration and Revenue. The legislation then created specific procedures for hearings that are handled for all categories and that were effective July 1, 2005. She explained that a post July 1, 2005 case is the date when the person requested the hearing. If an individual requested a hearing on June 30, 2005 it falls under the pre July 1, 2005 cases. Ms. Therbon covered the changes of the hearing process after the July 1, 2005. The changes are:

- Initiation of case – no change.
- Referral for Hearing - referral to OAH within 10 days of hearing request
- Change of ALJ - followed up by day 15 from hearing request with “record relied on” for decision challenged
  - Disqualification for cause by filing affidavit before taking of evidence, stating grounds with particularity; request decided initially by assigned ALJ but if affiant objects to decision chief ALJ (or AG if chief is the assigned ALJ) makes final decision.
  - Change ALJ without cause, upon notice if given within five days after notice of assignment; each side can exercise right; right waived by participating in hearing or conference with assigned ALJ.
- Pre-hearing – no changes.
- Hearing – Board request for permission to hear evidence with ALJ to be made to chief ALJ at time of referral.



Commission members directed questions to Ms. Therbon regarding the process.

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

**RESOLVED to accept the Executive Administrator's report.**

**All in favor. Motion passes.**

The Commission members reviewed the talking points regarding HB 462.

The Commission recessed for break at 10:32 a.m.  
The Commission reconvened from break at 10:37 a.m.

**Agenda Item 13**

**Public Comment Online Renewal Process**

**Connie Wood-Harris-**

Ms. Wood-Harris addressed the Commission regarding the lapse of her license due to an incomplete online renewal process. She commented that she took Mr. Royle's continuing education classes on January 22 & 23, 2006. On January 24, 2006 she renewed her license online when close to the end of the process her computer went blank. She had already put in her credit card information by this time and was about ready to print a confirmation. She called the Commission on January 25, 2006 to confirm that her renewal had been received and that everything was fine. The person she spoke with at the Commission said that they had received it and that everything was fine. However, a month later she had received a letter from the Commission saying that her license was lapsed. She received her credit card statement a month later showing she had been charged for her renewal fee on the 24<sup>th</sup> and on the 25<sup>th</sup> it indicated that the renewal fee was credited back to her. Ms. Wood-Harris asked the Commission what she did wrong in the renewal process that caused her license to lapse?

Commission members directed questions to Ms. Wood-Harris regarding the online renewal process and let her know that there are problems in the process and that they are being looked into.

**Donald Zimmerman**

Mr. Zimmerman addressed the Commission regarding the lapse of his broker license, the closing of his office due the lapse of his

broker license and the reinstatement of his licensees under that office. Mr. Zimmerman renewed his license online through the Real Estate Commission on January 21, 2006 and did not receive a confirmation.

- On February 1, 2006 received a call from Nancy saying that his broker was lapsed, his office was closed and his licensees would have to reinstate their licenses and pay a reinstatement fee.
- Mr. Zimmerman said he had never received any notice that his renewal was incomplete. He asked why the computer didn't let him know that his renewal was not complete at the time he renewed.
- He said that he completed the necessary applications under protest.

The Commission members directed questions to Mr. Zimmerman regarding the online renewal process.

**On a motion duly made by Stone, seconded by DuVal, it was**

**RESOLVED to enter into executive session in accordance with AS 44.62.310(c)(2).**

**All in favor. Motion passes.**

The Commission members went into Executive session at 11:01 a.m.

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

**RESOLVED to come out of executive session and go back on the record.**

**All in favor. Motion passes.**

The Commission members came out of Executive session at 11:41 a.m.

**On a motion duly made by Fluetsch, seconded by DuVal, it was**

**RESOLVED to remove the lapse from the record of each licensee and refund the reinstatement fee of \$50 for each licensee**

**(#13832, 15594, and 16580) under the  
supervising broker #B 10935.**

**All in favor. Motion passes.**

Barbara Ramsey read the Alaska Real Estate Commission mission statement. The mission of the Alaska Real Estate Commission is: to protect the public interest by licensing practitioners and enforcing the established standards, to promote professional excellence in the real estate industry and to support and encourage licensees. The method by which this mission is accomplished are testing for entry level knowledge prior to licensing, publishing education materials including but not limited to public awareness, materials and statutes and regulations pertinent to real estate business and ownership. Requiring education courses of licensees and encouraging the general public to participate in educational seminars pertaining to real estate practices and ownership, conducting investigations of alleged violations of license law and imposing discipline measures on licensees who violation have been confirmed by due process, managing the resources of the Real Estate Surety Fund that is responsible for the benefit of both licensees and the general public.

**Agenda Item 7**

**Assistant Attorney General**

Dave Brower answered questions from the Commission members on the process of receiving money back from a licensee who had a paid out surety fund claim:

- Once there is a final decision staff to get a confession of judgment in any repayment agreement.
- Enforcement of repayment of the surety fund through judgment and claim on the PFD for those that remain in the state.
- Look into the hiring of an agency for collection.

The Commission directed staff to look into the processes as outlined above.

The Commission recessed for lunch at 12:10 p.m.

The Commission reconvened from lunch at 1:28 p.m.

Commission member Roger Stone left the meeting to catch a flight to Ketchikan.

A quorum was still present with Commission members Tim Worthen, Bradley Fluetsch, David Somers, Barbara Ramsey and Gene DuVal.

**Agenda Item 14**

**Old Business**

The Commission members discuss the talking points of HB 462.

**Response to Gene DuVal's email 2/17/06**

The Commission members discussed the email from Gene DuVal.

- Regulation regarding a copy of a current license of out of state broker if there is a referral. Regulation is in the process.
- Revised consumer pamphlet. Regulation in process.
- Draft of regulation of Public Official

The Commission members discussed including the definition of public official within the real estate regulations.

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

**RESOLVED for the regulation change: 12 AAC 64.990 to include a definition that a "public official" is a public servant as outlined in AS 09.45.169(3). Staff to include the language in this statute as part of the definition, but not a sub-contractor hired by the government, state or municipality.**

**All in favor. Motion passes.**

- Repayment of unpaid surety claims. Addressed with Mr. Brower earlier in the meeting.
- Report from the investigator of unlicensed and unauthorized to practice? Has already been addressed.
- Revisit of printing of newsletter. Issue addressed at a previous meeting. Newsletter will not be printed per Director's directive.
- AS 34.70 explanation addendum or amendment. Can it be contractually written into the purchase agreement that inspections become in itself the addendum/explanation? Give this issue to the AG's office for their determination.

BBP (ask AG is this legal and does it meet the intent of AS 34.70.010 - 200) – amendments such as used in the Anchorage MLS purchase agreement item #12(h) are in compliance.

The Commission members agreed to review the property disclosure statement, submit comments and changes to Executive Administrator to be included in the next board packet.

- Conflict of interest disclosure. When a licensee is a seller/lessor and is selling/leasing property, not representing the buyer/lessee, is there a conflict of interest? Many licensees are not disclosing because they may not have read the conflict of interest statute, AS 08.88.391(a-c).

BBP – outline conflict of interest in AS 08.88.391(a-c) in the next newsletter.

Remaining updates from December 1, 2005 meeting  
Response from Rick Younkins, Chief Investigator

The Commission members discussed the letter from the Chief Investigator regarding the fines set for MOAs.

- Recommendations are based on the history of fines set in similar cases.
- Fine is based on a board members recommendation.

Evaluation Results from AAR Course at Convention

Commission members directed staff to get the evaluations from the AAR convention class. Commission members to audit classes so that the course could be graded and evaluated. Develop an audit form that could be filled out by a Commission member or whoever would be designated to audit the course, for the next meeting.

- Positives, negatives, how can it improve
- Send directly to Executive Administrator
- Separate and distinct from the evaluation form
- Course looks good on paper yet not a good class
- Look at it from a Commission members point of view
- If there is a problem bring it before the Commission for a recommendation

Review Concept of Fingerprinting Applicants

Commission members discussed this issue earlier in meeting. Margo Mandel to bring back information regarding this issue.

ARELLO

Commission members agreed that Barbara Ramsey should attend the ARELLO conference in Jacksonville, Florida.

Commission members discussed items they would like Barbara Ramsey to collect information and bring back to the next meeting.

- Unwarranted referrals – states that have legislation.
- Trend west point systems
- Time share regulations
- Trends / new products / services / issues
- Zillow.com – search of public records gathered and put in searchable database.
- Mortgage bankers/originators regulated re: over site concerns re: predatory lending.
- Electronic record retention

The Commission recessed for break at 3:21 p.m.

The Commission reconvened from break at 3:31 p.m.

#### Norman Bournival letter

The Commission members reviewed and discussed a letter from Mr. Bournival, dated March 10, 2006 to the Real Estate Commission regarding being misinformed by an instructor at what education can be used for continuing education. The instructor said that the 15 hours of broker upgrade education could be used as continuing education. However, broker upgrade education can not be used as continuing education.

The Commission members directed staff to include on the pre licensing and upgrade certificate to say that it does not count towards CE requirements.

Commission member Gene DuVal to provide - Modular vs. manufactured definition for the next meeting.

Anita Bates emailed an inquiry regarding electronic record keeping it is allowable.

- AS 08.88.351, 12 AAC 64.125(e), 12 AAC 64.405.
- Staff to respond – the REC is looking into the pros and cons of electronic record keeping.

The Commission Members were asked read HB 272 for FYI. Commission members to their contact local board if they have any comments on this issue.

The Commission members directed staff to check with Roger Prince Division of Banking and Securities regarding the licensing of mortgage brokers.

The Commission members set the next two meeting dates.

- September 20 & 21, 2006 in Anchorage and Wasilla.
- November 30 & December 1, 2006 in Anchorage.

**On a motion duly made by Ramsey, seconded by Fluetsch,  
it was**

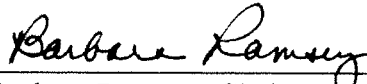
**RESOLVED to adjourn the meeting.**

**All in favor. Motion passes.**

Meeting adjourned at 4:27 p.m.

Prepared and submitted by Division Staff.

Approved:



Barbara Ramsey, Chairperson  
Real Estate Commission

Date: 7/18/06