

Iowa Real Estate Commission
200 East Grand, Suite 350
Des Moines, IA 50309

MINUTES
February 6, 2014

Commissioners present for all or part of the meeting:

Gail Flagel via phone	Dennis Stolk
Carol Haines	Terry Duggan via phone
Susan Sanders	Mike Telford
John Goede – left at 11:30 a.m.	

Commissioners absent:

None

Staff Present:

John Lundquist, Assistant Attorney General	Lori SchraderBachar, Site Manager
Dave Batts, Education Director – Not present	Colleen Goddard, Auditor
Jeff Evans, Executive Officer	Jill Simbro, Administrative Assistant
Sandy Malek, Investigator	

Members of the Public:

Paul McLaughlin, Iowa Association of Realtors; Mike Knapp; Joan Johnson; Kyra Bell; Doug Burnett; Brian Wentz

Call to Order

Sanders called the meeting to order at 9:05 a.m.
Quorum was established.

Motion by Stolk to approve the agenda.

Seconded by Goede.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion by Haines to approve the December 5, 2013 minutes.

Seconded by Telford.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion by Goede, to approve the December 5, 2013 closed session minutes.

Seconded by Telford.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion by Stolk, to approve the January 8, 2014 closed session minutes.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion by Telford, to approve the January 8, 2014 closed session minutes.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Commissioner Reports

Sanders said there was discussion among the other Commissioners on some ideas on ways to streamline processes in the upcoming year.

Staff Reports

Lundquist reports he and Evans met with Dave Bert and Paul McLaughlin from Iowa Association and that the Legislative session has started.

SchraderBachar announced that the position for the Real Estate/Accountancy Licensing Specialist is posted through February 21, 2014.

Evans reported that during the interim Malek is handling the Real Estate licensing and Simbro is handling the Accountancy licensing in addition to their regular responsibilities. The Professional Licensing Bureau Newsletter will be sent out with a fluid deadline of March 1, 2014. Evans also reported that there is a proposed bill in the Legislative Session relating to the transfer of real property by requiring disclosure of the use of property for the manufacture, use, storage, or sale of methamphetamine and making a penalty applicable.

Communications

Motion made by Telford to grant waiver 14-01, which asked to waive 193E Iowa Administrative Code § 3.1(6) and the required 24-month active salesperson experience under a sponsoring broker to obtain an Iowa real estate broker's license.

Seconded by Flagel.

VOTE: Aye: All Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Stolk to deny waiver 14-02, which asked to waive 193E Iowa Administrative Code § 3.1(6) and the required 24-month active salesperson experience under a sponsoring broker to obtain an Iowa real estate broker's license.

Seconded by Telford.

VOTE: Aye: All Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Stolk to deny waiver 14-03, which asked to waive 193E Iowa Administrative Code § 3.6(3), which states that a broker who fails to reinstate an expired license by December 31 of the third year following expiration shall start over in the licensing process.

Seconded by Telford.

VOTE: Aye: All Nay: none Abstaining: none

Motion passed unanimously.

Petition For Rule Making, 193E Iowa Administrative Code § 11.3(1)

A petition for rule making was received from Kyra C. Bell, Doug Burnett, and Brian Wentz; asking to amend 193E Iowa Administrative Code § 11.3(1). The petition proposed, to better protect the public, that there is a requirement that a specific written disclosure of the brokerage's policy regarding cooperation and compensation to other brokers is made prior to a seller signing a listing agreement. Discussion was held on what constituted full disclosure to the seller that a brokerage's policy may limit the participation of other brokerages in the sale of a property. Representatives from Iowa Realty, Keller Williams, and the Iowa Association of Realtors had an opportunity to express their concerns. One issue that was brought up by legal counsel for Iowa Realty was that they felt Sanders has a clear conflict of interest in this matter and that any continued discussion involving Sanders would be an inappropriate use of state resources and a violation of Iowa Ethics rules. The discussion of Sanders recusing herself was brought up among the Commission and Assistant Attorney General Lundquist. Lundquist advised Sanders and the other Commissioners who may also have potential conflicts that they would not be required to recuse themselves from the vote if they felt an impartial decision could be made. Sanders announced that she does not intend to recuse herself from a future vote because she feels she can make an unbiased decision regarding this rule. The Commission agreed to table this discussion and make a final decision in this matter at the March 6, 2014 meeting.

PSI

Evans reports that PSI is implementing the new portion of the national real estate examination beginning March 1, 2014.

Administrative Rules:

Motion made by Telford to terminate the rule making for 193E Iowa Administrative Code § 14.1(6).

Seconded by Stolk.

VOTE: Aye: All Nay: none Abstaining: none

Motion passed unanimously.

Public Comment

McLaughlin announced the Iowa Association of Realtors is having a Legislative Bus-In Day on Tuesday, February 11th. Issues the IAR is looking at in the next legislation session: Home buyer savings account (similar to 529 accounts), radon issues/testing, branch offices, and trust accounts.

Closed Session

Motion by Telford to enter into closed session pursuant to Iowa Code §21.5(1)(d), §21.5(1)(f), §21.5(a) and (d) and §21.5(1)(a) and §543B.52(1) to discuss informal settlements, consent agreements and open cases.

Seconded by Haines.

VOTE: Roll call: Telford, aye; Flagel, aye; Haines, aye; Sanders, aye; Duggan, aye and Stolk, aye.

Motion carried.

The Commission entered into closed session at 11:43 a.m. and arose there from at 12:37 p.m.

Open Session

Motion by Stolk to return to open session.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Haines to accept signed settlements and/or Consent Agreements for cases and to authorize the Chair, Vice Chair, or Executive Officer Evans to sign the accepted signed settlements and/or Consent Agreements: 13-109, 13-200, 13-204, 13-225, 13-228, 13-267, and 13-269.

Seconded by Telford.

VOTE: Aye: all Nay: none Abstaining: Duggan (Case 13-200), Stolk (Case 13-267)

Motion passed.

Motion made by Flagel to find probable cause and to authorize the Chair, Vice Chair, or Executive Officer Evans to sign the accepted settlements and/or consent agreements: 13-229, 13-262, 13-263, 13-271, 13-273, 13-283 and 14-010.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Telford to find probable cause and accept the signed Voluntary Surrender, and to authorize the Chair, Vice Chair, or Executive Officer Evans to sign the signed Voluntary Surrender for case 14-002.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Haines to enter into a consent agreement, with Executive Officer signing on behalf of the Commission, and then issue licenses for the following case: 13-285, 13-292, 13-296, 14-014, 14-015 and 14-017.

Seconded by Stolk.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Stolk to deny a real estate license in the following case: 13-288.

Seconded by Telford.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Haines to find probable cause on the following cases: 13-274, 13-277, 13-294, 14-001, 14-003, 14-019, 13-148, 13-151, 13-286, 13-287, 14-011, and 14-016.

Seconded by Flagel.

VOTE: Aye: all Nay: none Abstaining: Stolk (Case 14-001)

Motion passed unanimously.

Motion made by Telford to close the following cases: 12-251, 12-372, 13-180, 13-253, 13-261, 13-275, 13-282 and 13-276.

Seconded by Haines.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Motion made by Haines to rescind the probable cause finding and close the following case: 13-241.

Seconded by Stolk.

VOTE: Aye: all Nay: none Abstaining: none

Motion passed unanimously.

Meeting Schedule

Future IREC meetings are tentatively scheduled as follows:

February 26, 2014 10:30 a.m. IREC Case No. 14-001.

Investigation Committee

Wednesday, March 5, 2014 (Haines, Goede)

Wednesday, April 2, 2014 (Sanders, Telford)

Commission Meetings:

Thursday, March 6, 2014

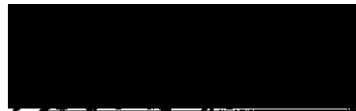
Thursday, April 3, 2014

Sanders adjourned the meeting at 12:47 p.m.

Respectfully submitted,

3-6-14

Date



By: Susan J. Sanders, Chair

Iowa Real Estate Commission Staff Report (For December 2013)

February 6, 2014 IREC Meeting

Audits (Comparison of Average Percentages of Non-Compliance)

<u>Year</u>	<u>E&O</u>	<u>Continuing Education</u>
2007	17%	5%
2008	15%	4%
2009	33%	6%
2010	18%	5%
2011	15%	5%
2012	21%	5%
2013 YTD	11%	3% (Not all audit results are in yet)

Background Checks

Average turn round time is approximately 27 days.

Complaints/Informal Settlement Agreements

297 complaints have been opened so far in 2013, with 18 opened in December.

Informal Settlement Agreements Signed At December IREC Meeting: 9

Consent Agreements Entered Into At December IREC Meeting: 1

Cases Closed At December IREC Meeting: 11

License Denial At December IREC Meeting: N/A

Licensing Total

	<u>Firms</u>	<u>Brokers</u>		<u>Salespeople</u>	
		Active	Inactive	Active	Inactive
December 2013	1,207	3,430	537	5,240	1,566
December 2012	1,173	3,451	604	5,085	1,813

**Data gathered on the last working day of the month.*

***IREC Staff was out at the end of October 2012, so licensing numbers are not available.*

Applications received (brokers and salespersons only):

7-1-05 thru 12-31-05	429
2006	1,275
2007	1,113
2008	861
2009	531
2010	604
2011	562
2012	625
2013 YTD	733

Trust Account Audits

350 audits have been completed so far in 2013, with 26 conducted in the month of December.

Real Estate Education Director Report

Course Approvals	41
Course Denials	1
Instructor Approvals	4
Provider Approvals	1
Post Course Approvals	17
Post Course Denials	7
Pre Course Approvals	-
C.E. Audits Mailed	50
C.E. Audits Mailed (2 nd Notice)	6
C.E. Audits Reviewed	47
C.E. Course Class Audits	1
Exam in Lieu of CE Letter Sent	18

Iowa Real Estate Commission Staff Report (For January 2014)

February 6, 2014 IREC Meeting

Audits (Comparison of Average Percentages of Non-Compliance)

<u>Year</u>	<u>E&O</u>	<u>Continuing Education</u>
2007	17%	5%
2008	15%	4%
2009	33%	6%
2010	18%	5%
2011	15%	5%
2012	21%	5%
2013	11%	3%
2014		

Background Checks

Average turn round time is approximately 30 days.

Complaints/Informal Settlement Agreements

17 complaints have been opened so far in 2014, with 17 opened in January.

Findings of Fact, Conclusions of Law, Decision and Order signed at January IREC Meeting: 1

Informal Settlement Agreements Signed At January IREC Meeting: N/A

Consent Agreements Entered Into At January IREC Meeting: N/A

Cases Closed At January IREC Meeting: N/A

License Denial At January IREC Meeting: N/A

Licensing Total

	<u>Firms</u>	<u>Brokers</u>		<u>Salespeople</u>	
		Active	Inactive	Active	Inactive
January 2014	1,202	3,428	561	5,242	1,625
January 2013	1,185	3,448	635	5,085	1,871

**Data gathered on the last working day of the month.*

Applications received (brokers and salespersons only):

7-1-05 thru 12-31-05	429
2006	1,275
2007	1,113
2008	861
2009	531
2010	604
2011	562
2012	625
2013	733
2014 YTD	93

Trust Account Audits

45 audits have been completed so far in 2014, with 45 conducted in the month of January.

Real Estate Education Director Report

Course Approvals	47
Course Denials	-
Instructor Approvals	11
Provider Approvals	1
Post Course Approvals	2
Post Course Denials	2
Pre Course Approvals	1
C.E. Audits Mailed	32
C.E. Audits Mailed (2 nd Notice)	8
C.E. Audits Reviewed	10
C.E. Course Class Audits	1
Exam in Lieu of CE Letter Sent	1
Complaint Cases Initiated	1