

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

MINUTES
August 7, 2014

Commissioners present for all or part of the meeting:

Dennis Stolk, Vice Chair	Michael Telford (via telephone)
John Goede (via telephone)	Carol Haines
Helen Kimes	Janet DeMott

Commissioners absent:

Terry Duggan, Chair

Staff present for all or part of the meeting:

Jeff Evans, Executive Officer	Cheryl Merriman, Licensing Specialist
Lori SchraderBachar, Site Manager	Mary Kay Zaver, Accountant II
John Lundquist, Assistant Attorney General	Colleen Goddard, Auditor
Sandy Malek, Investigator	

Members of Public in attendance:

Paul McLaughlin, IAR
Heather Gilmore
Dawn Elwell, Century 21

Call to Order:

Stolk called the meeting to order at 9:04 a.m.
Quorum was established.

Motion by Haines to approve the agenda.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Kimes to approve the July 10, 2014 minutes.

Seconded by Telford.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Commissioner Reports:

None

Staff Reports:

Zaver instructed the Commissioners on how to complete their Travel Vouchers and the need for original receipts pursuant to Department of Administrative Services (DAS) rules.

Lundquist reported on the ruling of Jane Pagel vs. Iowa Real Estate Commission. On July 17th, 2014 District Court Judge John D. Ackerman of the Third Judicial District of Iowa affirmed the Commission's decision in Case No. 12-058.

SchraderBacher announced that Jill Simbro has accepted the position of Real Estate Education Director for the Commission. SchraderBacher thanked the real estate staff for taking on extra duties the last few months. SchraderBacher also announced that the finishing touches of the Strategic Plan should be completed by the Commission's September meeting and that she advised that the rollout of the new Bureau website has been delayed.

Evans encouraged Commission members to submit articles for the upcoming newsletter. In the newsletter, Evans will be including information on the 2014 renewal and a reminder of the importance of maintaining E&O insurance coverage. Evans also thanked Simbro and Malek for their extra efforts during this recent staff shortage.

Communications:

After discussion, **Motion made by Telford to grant waiver 14-07, which asked to waive 193E Iowa Administrative Code § 4.1(10), which requires an applicant applying for an original salesperson license to complete all the required education during the 12 months prior to the date of application.**

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

After discussion, **Motion made by Telford to table waiver 14-08 for a future meeting and have staff obtain additional information from the petitioner. The petitioner 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 Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Public Comment:

McLaughlin announced that the 2014 IAR Annual Convention will be held September 16 – 19, 2014 in Cedar Rapids, Iowa and invited the Commission to attend.

Formal Hearing:

A hearing was held before the Commission in Case 14-054. The respondent was represented by Attorney Katie Graham. The hearing was conducted by Administrative Law Judge LaMarche and recorded by Peterson Court Reporting Service. The hearing was open to the public, pursuant to 193 Iowa Administrative Code § 7.39. The hearing commenced at 9:45 a.m. and ended at 11:40 a.m.

Shortly following the start of the hearing, Goede was called away for an emergency and was unavailable to participate in the Commission's deliberations, along with the rest of the Commission meeting.

Closed Session:

Motion made by Kimes to go into closed session pursuant to Iowa Code Section 21.5(1)(f) to deliberate Case 14-054.

Seconded by Telford.

VOTE: Roll call: Stolk, aye; Telford, aye; DeMott, aye; Haines, aye; Kimes, aye.

Motion carried unanimously.

The Commission entered into closed session at 11:41 a.m. and arose there from at 12:29 p.m.

Open Session:

Motion made by Kimes to return to open session.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion made by Haines to direct Administrative Law Judge LaMarche to prepare a written decision for Case No. 14-054 in accordance with the findings and deliberations made in closed session.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Legal Overview:

Lundquist presented a legal overview of Iowa Code 272C.6 for the Commission members and stressed the importance of confidentiality when dealing with discipline files.

Closed Session:

Motion by Haines to enter into closed session pursuant to Iowa Code §§ 21.5(1)(a), 21.5(1)(d), and 272C.6(4) to review pending licensee discipline cases and investigations, including any cases ready for final resolution through closure or consent order.

Seconded by Kimes.

VOTE: Roll call: Stolk, aye; Telford, aye; DeMott, aye; Haines, aye; Kimes, aye.

Motion carried unanimously.

The Commission entered into closed session at 12:55 p.m. and arose there from at 1:41 p.m.

Open Session:

Motion by Telford to return to open session.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion 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 accepted Consent Agreements: 13-163 and 14-071

Seconded by DeMott.

VOTE: Aye: all Nay: none Abstaining: Stolk (Case 14-071)

Motion passed.

Motion by Kimes to find probable cause and to authorize the Chair, Vice Chair or Executive Officer Evans to sign the accepted signed settlements and/or consent agreements: 14-057, 14-070, 14-102, 14-106, 14-110, 14-116, 14-120, 14-122, 14-127, 14-129, 14-130 and 14-131.

Seconded by Haines.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by DeMott to grant licensure for the following case: 14-137

Seconded by Haines.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Haines to find probable cause for the following cases: 13-149, 13-207, 13-209, 14-073, 14-092, 14-111, 14-117, 14-128, 14-135 and 14-136.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Kimes to close the following cases: 12-213, 13-257, 13-258, 14-086 and 14-087.

Seconded by Haines.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by DeMott to adjourn the meeting at 1:47 p.m.

Seconded by Haines.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Meeting Schedule:

Future IREC meetings are tentatively scheduled as follows:

Investigation Committee

Wednesday, September 3rd (Goede, Kimes)

Wednesday, October 1st (Haines, Duggan)

Wednesday, November 5th

Wednesday, December 3rd

No January 2015 Meeting

Wednesday, February 4th

Wednesday, March 4th

Commission Meetings

Thursday, September 4th

Thursday, October 2nd

Thursday, November 6th

Thursday, December 4th

No January 2015 Meeting


Thursday, February 5th

Thursday, March 5th

Respectfully submitted,

9-4-14

Date


Chair, Terry Duggan

**Iowa Real Estate Commission
Staff Report (For June 2014)
August 7, 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	6%	2%

Background Checks

Average turn round time is 28 days.

Complaints/Informal Settlement Agreements

122 complaint files have been opened 2014 YTD, with 19 opened in June.

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

Informal Settlement Agreements Signed At June IREC Meeting: 12

Consent Agreements Entered Into At June IREC Meeting: 5

Cases Closed At June IREC Meeting: 7

License Denial At June IREC Meeting: 1

Licensing Totals

	<u>Firms</u>	<u>Brokers</u>		<u>Salespeople</u>	
		<u>Active</u>	<u>Inactive</u>	<u>Active</u>	<u>Inactive</u>
June 2014	1,225	3,419	448	5,435	1,260
June 2013	1,190	3,429	476	5,180	1,363

**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	472

Trust Account Audits

188 audits have been completed so far in 2014, with 25 conducted in the month of June.

Real Estate Education Director Report

Course Approvals	113
Course Denials	-
Instructor Approvals	26
Provider Approvals	-
Post Course Approvals	-
Post Course Denials	-
Pre Course Approvals	-
C.E. Audits Mailed	-
C.E. Audits Mailed (2 nd Notice)	7
C.E. Audits Reviewed	6
C.E. Course Class Audits	-
Exam Authorization Letters	-
Complaint Cases Initiated	1

**Iowa Real Estate Commission
 Staff Report (For July 2014)
 August 7, 2014 IREC Meeting**

Licensing Totals

	<u>Firms</u>	<u>Brokers</u>		<u>Salespeople</u>	
		Active	Inactive	Active	Inactive
July 2014	1,226	3,426	450	5,470	1,271
July 2013	1,194	3,443	482	5,200	1,382

**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	522

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	6%	2%

Background Checks

Average turn round time is 27 days.

Complaints/Informal Settlement Agreements

137 complaint files have been opened 2014 YTD, with 15 opened in July.

Findings of Fact, Conclusions of Law, Decision and Order signed at July IREC Meeting: N/A

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

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

Cases Closed At July IREC Meeting: N/A

License Denial At July IREC Meeting: N/A

Trust Account Audits

225 audits have been completed so far in 2014, with 36 conducted in the month of July.

Real Estate Education Director Report

N/A – Staff Transition

Course Approvals	-
Course Denials	-
Instructor Approvals	-
Provider Approvals	-
Post Course Approvals	-
Post Course Denials	-
Pre Course Approvals	-
C.E. Audits Mailed	-
C.E. Audits Mailed (2 nd Notice)	-
C.E. Audits Reviewed	-
C.E. Course Class Audits	-
Exam Authorization Letters	-
Complaint Cases Initiated	-