

Iowa Real Estate Commission
200 East Grand, Suite 350
Des Moines, IA 50309
MINUTES
March 2, 2017

Commissioners present for all or part of the meeting

Terry Duggan, Chair	John Goede
Dennis Stolk, Vice Chair	Helen Kimes
Jan DeMott	Mike Telford

Commissioners not present

N/A

Staff present for all or part of the meeting

Jeff Evans, Executive Officer	Pamela Black, Licensing Specialist
John Lundquist, Assistant Attorney General	Rod Reed, Professional Licensing Bureau Chief
Colleen Goddard, Trust Account Auditor	Sandy Malek, Investigator
Jill Simbro, Education Director	Tracy Lindgren, Background Coordinator
Lori SchraderBachar, PLB Site Manager	Zach Hingst, Division of Banking Legal Counsel

Members of Public in attendance for all or part of the open session of the meeting

Paul McLaughlin, Iowa Association of Realtors	Alan Lerch, Developers Realty Group LLC
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Call to Order

Stolk called the meeting to order at 9:06 a.m.
Quorum was established.

Introductions were made.

Motion by Telford to approve the agenda.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Approval of Minutes

Motion by DeMott to approve the open session and the closed session February 2, 2017 IREC meeting minutes.

Seconded by Goede.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Commissioner Reports

None

Staff Reports

Lundquist reported that there will be a hearing that is scheduled for 1:30 p.m.

SchraderBachar updated the Commission on the continued work with the Vertiba team, the user acceptance testing (beta testing) that has begun, and an anticipated live date sometime in July or August. SchraderBachar also made note that Jill Simbro continues to act at the team lead on the project. SchraderBachar also announced that due to the time devoted to the licensing system project, the next PLB Newsletter will be sent at end of summer via the new GovDelivery service. SchraderBachar also provided an update that she has been in constant communications with the Governor's Office in regards to filling all of the seats on the Commission.

Evans submitted the IREC monthly report for February 2017 and reminded the Commissioners that if they expect to be reimbursed for travel expenses, original and itemized receipts will need to be submitted to staff. Evans commended Lundquist's hard work in reaching an informal settlement for one of the hearings that was scheduled for this month. Evans congratulated DeMott, Kimes, and Telford on their reappointments to the Iowa Real Estate Commission and thanked them for their hard work throughout the years.

Iowa Office of Ombudsman

Discussion was held regarding the February 27, 2017 Special Report on Iowa's Professional Licensing Boards released by the Iowa Office of Ombudsman. Lundquist reported that the Ombudsman's office periodically issues reports and this one highlighted the Ombudsman's opinion that Iowa's licensing boards need to commit to greater transparency in order to improve public confidence in their work.

The Commissioners shared the opinion that they felt it was unfair that the Ombudsman's office drew their conclusions from four boards and four complaints when thousands of complaints were decided by boards in the time period in question. Lundquist expressed his opinion that in his experience with this respective board, that he felt the members of the Commission take their responsibility to safeguard the public seriously as they endeavor to perform their duties as transparently and as openly as the law allows.

Communications

After discussion, **Motion by Telford to grant waiver 17-02.** Allen Lerch, petitioner, spoke to the Commission and explained that he was actively licensed for the majority of time as a real estate salesperson and broker between 1991 and 2007 and that he let his broker license expire on December 31, 2008 due to personal matters. Lerch, who became licensed as an Iowa real estate salesperson again on February 2, 2017, asked the Commission for a waiver of 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 Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

2017 Proposed Legislation

Discussion was held re: House Study Bill 125, Senate Study Bill 1117, and Senate File 320 – Introduced. McLaughlin, Hingst, and Lundquist led the discussion and explained the proposed changes to the Commission. The Commission did have a couple concerns with the proposed legislation and would like to see conviction in Iowa Code § 543B.15(3)(c) defined the same as Iowa Code § 543B.29(1)(f), which defines "conviction" as including only indictable offenses. This amendment would bring consistency to the definition of "conviction" throughout Iowa Code chapter 543B.

The Commission also expressed concerns with the proposed changes in Iowa Code § 543B.16 and suggested that the language be changed to “shall only require an applicant to disclose on the application criminal convictions for crimes classified as indictable offenses.” This amendment would restore the Commission’s ability to receive all necessary information from an applicant so that the Commission may accurately measure that applicant’s statutory eligibility to receive a real estate license. Also, by requiring applicants to disclose all crimes other than simple misdemeanors, this amendment helps facilitate a broker’s thorough vetting of potential employees without clouding the process with the unnecessary disclosure of petty crimes – such as public intoxication or underage alcohol possession.

McLaughlin seemed receptive of the Commission’s suggestions and said that he looked forward to working with Hingst, Lundquist and Jennifer Kingland to implement these amendments to the proposed bill.

Public Comment

McLaughlin acknowledged the amount of time and work of many people that was spent on the proposed legislation and that he is hoping that it gets passed.

Closed Session (1)

Motion by DeMott to enter into closed session pursuant to Iowa Code §§ 21.5(1)(a), 21.5(1)(d), 21.5(1)(f) and 543B.15(9) 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: DeMott, aye; Duggan, aye; Goede, aye; Kimes, aye; Stolk, aye; Telford, aye.

Motion passed unanimously.

The Commission entered into closed session at 10:25 a.m. and arose from there at 11:25 a.m.

Open Session (1)

Motion by Telford to return to open session.

Seconded by Stolk

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Kimes to accept the signed settlements and/or consent agreements for the cases discussed in closed session and to authorize Duggan (Chair), Stolk (Vice Chair) or Evans (Executive Officer) to sign the accepted, signed Settlement Agreements/Consent Agreements for the following cases: 16-284, 16-368, 16-389 and 17-008.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Goede to find probable cause for the cases discussed in closed session and to authorize Duggan (Chair), Stolk (Vice Chair) or Evans (Executive Officer) to sign the accepted, signed settlement agreement for the following cases: 16-359, 16-380 and 16-390.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Kimes to enter into a Consent Agreement with the Applicant, with Executive Officer Evans signing on behalf of the Commission and then grant licensure when all other licensing requirements have been met for IREC Case No. 17-027.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Goede to grant licensure for IREC Case No. 17-024 and IREC Case No. 17-033.

Seconded by Telford.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to find probable cause for the following cases: 16-355, 16-369, 17-016, 17-018, 17-028 and 17-035 as discussed in closed session.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Goede to close the following cases: 16-346, 16-354, 16-370, 16-378, 16-382, 16-383, 16-386, 17-005 and 17-019 as discussed in closed session.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Goede to close IREC Case No. 16-347 as discussed in closed session.

Seconded by Stolk.

VOTE: Aye: DeMott, Duggan, Goede, Stolk, Telford Nay: None Abstaining: Kimes

Motion passed.

Discussion was held re: IREC Case No. 16-304 and the allegations of the unlicensed practice of real estate.

Motion by Telford to close the file.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Duggan left the room at 11:37 a.m.

Discussion was held re: IREC Case No. 16-375 and the allegations of the unlicensed practice of real estate.

Duggan entered the room at 11:40 a.m.

Motion by Telford to close the file.

Seconded by Kimes.

VOTE: Aye: DeMott, Goede, Kimes, Stolk, Telford Nay: None Abstaining: Duggan

Motion passed.

Discussion was held re: IREC Case No. 16-384 and the allegations of the unlicensed practice of real estate.

Motion by Kimes to close the file.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 16-207 and a potential applicant filing for the criminal history background check submitted a check without sufficient funds to back the submitted instrument.

Motion by Telford to close the file.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 17-021 and a potential applicant filing for the criminal history background check submitted a check without sufficient funds to back the submitted instrument. The background check has not expired yet, so it was determined that the file will be tabled to a future meeting.

Future Meeting Dates

Future IREC meetings are tentatively scheduled as follows:

Investigation Committee

Wednesday, April 5 (Duggan, Kimes)

Wednesday, May 3: (Stolk, DeMott)

Wednesday, May 31

No July Meeting

Wednesday, August 2

Wednesday, September 6

Wednesday, October 4

Wednesday, November 1

Wednesday, December 6

No January Meeting

Commission Meetings

Thursday, April 6

Thursday, May 4

Thursday, June 1

No July Meeting

Thursday, August 3

Thursday, September 7

Thursday, October 5

Thursday, November 2

Thursday, December 7

No January Meeting

The meeting recessed at 11:47 am and reconvened at 1:30 pm.

Formal Hearing

A hearing was held before the Commission in Case No. 16-296. Administrative Law Judge Laura Lockard assisted the Commission in conducting the hearing and a certified court reporter recorded the proceedings. The hearing was open to the public. Hearing commenced at 1:37 p.m. and concluded at 2:55 p.m.

Closed Session (2)

Motion by Telford to enter into closed session pursuant to Iowa Code §§ 21.5(1)(f) to deliberate its decision in IREC Case No. 16-296.

Seconded by Stolk.

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

Motion passed unanimously.

The Commission entered into closed session at 2:55 pm and arose from there at 3:10 p.m.

Open Session (2)

Motion by Telford to return to open session.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to request that Administrative Law Judge Lockard prepare a written decision for IREC Case No. 16-296 in accordance with the findings and deliberations made in closed session.

Seconded by Goede.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Meeting Adjourned

With all agenda items covered, the meeting adjourned at 3:12 pm.

These minutes accurately reflect the minutes approved by the Commission at the meeting on:

4-6-17

Date



By: Terry Duggan, Chair

Iowa Real Estate Commission Staff Report (For February 2017) March 2, 2017 IREC Meeting

LICENSING TOTALS:

	<u>Brokers</u>			<u>Salespeople</u>		<u>TOTAL IND. LICENSEES</u>
	<u>Firms</u>	<u>Active</u>	<u>Inactive</u>	<u>Active</u>	<u>Inactive</u>	
February 2017	1,266	3,336	392	5,896	1,169	10,793
February 2016	1,233	3,348	396	5,666	1,193	10,603

EXAMINATIONS ADMINISTERED BY PSI:

	<u>January</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>
Broker	14	14	298	324	315	281	207
Salesperson	163	163	1,796	1,638	1,501	1,212	952

BROKERS & SALESPERSONS PROCESSED APPLICATIONS:

	<u>February</u>	<u>Year To Date</u>
2009		531
2010		604
2011		562
2012		625
2013		835
2014		845
2015		972
2016		1,031
2017	73	181

BACKGROUND CHECKS:

Year to Date average turnaround time is 24 days.

AUDITS:

	<u>February</u>	<u>Year To Date Totals</u>
Continuing Education	50	50
E & O	44	44
Trust Account	25	56

PERCENTAGE OF NONCOMPLIANCE FOR E&O AND CE AUDITS:

<u>Year</u>	<u>E&O</u>	<u>Continuing Education</u>
2009	33%	6%
2010	18%	5%
2011	15%	5%
2012	21%	5%
2013	11%	3%
2014	4.8%	1.8%
2015	15.9%	3.2%
2016	23.44%	4.7%
2017	-	-

INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:

	<u>February</u>	<u>Year To Date Totals</u>
Complaint Cases Opened	27	48
Final Case Disposition	35	40
Signed Informal Settlement Agreements	15	15
Signed Applicant Consent Agreements	2	2
Signed Cease and Desist by Consent Agreement	1	1
Formal Hearings	1	1
License Denials	-	-
Civil Penalties Assessed	-	\$27,750
Continuing Education Hours Assessed	-	40
CPA Audits Assessed	-	1
Trust Account Reexaminations Assessed	-	-
Probations Assessed	-	-
Suspensions Assessed	-	1
Revocations/Voluntary Surrenders	-	-
Statement of Charges Filed (Outstanding)	-	9

REAL ESTATE EDUCATION REPORT:

	<u>February</u>	<u>Year To Date Totals</u>
Course Approvals	64	147
Instructor Approvals	8	10
Provider Approvals	4	4
Post Course Approvals	4	9
Prior Course Approvals	-	3
Denied Courses	-	1