

Iowa Real Estate Commission
200 East Grand, Suite 350
Des Moines, IA 50309
MINUTES
September 3, 2020
9:00 a.m.

The meeting was conducted via Zoom because of the public health recommendations to minimize public gatherings. Public access to this meeting was made available through Zoom.

Commissioners present for all or part of the meeting

| | |
|--------------------------|--------------|
| Terry Duggan, Chair | Twee Duong |
| Dennis Stolk, Vice Chair | Jan DeMott |
| Wendy Carminhato | Jim Clingman |

Commissioners not present for the meeting

Helen Kimes

Staff present for all or part of the meeting

| | |
|--|--|
| Jeff Evans, Executive Officer | Lori SchraderBachar, PLB Site Manager |
| John Lundquist, Assistant Attorney General | Danielle Bartkiw, Licensing Specialist |
| Renee Paulsen, PLB Investigator | Colleen Goddard, Trust Account Auditor |
| Ashley Thompson, Background Manager | Jill Simbro, Education Director |

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

| | |
|---|--|
| Kristen Brend, Iowa Association of Realtors | Serges Attivi |
| Gabe Walsh, Iowa Association of Realtors | Jacy Propps |
| Amanda Nagle, Iowa Association of Realtors | Cody Edwards, Dickinson, Mackaman, Tyler & Hagen |
| Lauren McMillon, The CE Shop, Inc. | |

Call to Order

Duggan called the meeting to order at 9:07 a.m.
Quorum was established.
Introductions were made.

Motion by Clingman to approve the agenda.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Approval of Minutes

Motion by Stolk to approve the August 6, 2020 IREC Meeting open and closed session minutes and to authorize Executive Officer Evans to sign the minutes on behalf of the Commission.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Commissioner Reports

None.

Staff Reports

Lundquist had nothing to report.

SchraderBachar had nothing to report.

Evans asked the Commissioners to sign and return their per diems by the end of the day. Evans informed Commissioners that the ARELLO virtual conference registration fee is \$75.00 and they would be reimbursed if they choose to participate. Evans reminded Commissioners they cannot correspond with one another during any part of a session and to recognize and abide by the open meetings law.

Communications

After discussion, **Motion by Stolk to grant waiver 20-10:** The petitioner is requesting a waiver of 193E Iowa Administrative Code § 4.3 and the requirement that a salesperson applicant must submit their exam score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. The petitioner was unable to (re)take the National portion of the salesperson examination until June 9th as PSI temporarily closed their testing centers from March 19th until May 1st; in response to the public health emergency declaration due to COVID-19. The petitioner's State Exam Score Report expired during the time period that PSI was closed and before the petitioner was able to retake the National portion of exam.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

After discussion, **Motion by DeMott to grant waiver 20-11:** The petitioner is requesting a waiver of 193E Iowa Administrative Code § 4.3 and the requirement that a salesperson applicant must submit their exam score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. The petitioner was unable to (re)take the National portion of the salesperson examination until June 29th as PSI temporarily closed their testing centers from March 19th until May 1st; in response to the public health emergency declaration due to COVID-19. The petitioner's State Exam Score Report expired during the time period that PSI was closed and before the petitioner was able to retake the National portion of exam.

Seconded by Clingman.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Accommodations Due to COVID-19

Evans reported on the governor's extension of the Emergency Proclamation through September 20th and the possible (if the Emergency Proclamation goes through end of 2020) provision that states professional licenses shall not expire during the duration of the pandemic. Evans asked the Commissioners to bring options to accommodate this provision to the next board meeting. SchraderBachar asked the Commission to submit any changes that would require back end changes to the online licensing system by the first week of October, 2020.

Motion by Clingman to approve the updated "Frequently Asked Questions about IREC licensing during the COVID-19 Pandemic and Emergency Proclamations in Iowa" document for distribution.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

RFP For Errors & Omissions Insurance Update

Evans reported on the Request For Proposals (RFP) for the Real Estate Commission's group errors and omissions insurance program and informed the Commission that a Notice of Intent to Award was issued to the current vendor (Rice Insurance Services Company, LLC) on August 28, 2020.

2020 Legislation Update

Lundquist commended SchraderBachar and staff on their preparations for the implementation of House File 2627, which is to go into effect January 1, 2021.

Public Member Arthur Cox joined the meeting at 9:38 a.m.

Petition for Declaratory Order

Petitioner, Community Housing Initiatives Inc seeks a declaratory order to the applicability of Iowa Code chapter 543B and the question of licensure for certain non-profit entities to provide property management.

After discussion, **Motion by Stolk to answer the Petition for Declaratory Order.**

Seconded by Clingman.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Lundquist briefed the Board on procedure for answering the Petition for Declaratory Order.

Iowa Code states a petition is deemed denied if not answered within 60 days, however the petitioner can waive the requirement and establish an agreed upon deadline.

Petitioner Edwards agreed to waive the 60-day requirement and extend the deadline to the 25th of September and have the oral arguments set to take place at the Commission's November 5, 2020 meeting.

Walsh, who submitted a Petition of Intervention, agreed to the order of proceedings.

Motion by Clingman to approve the procedure for Declaratory Order which was agreed upon by Petitioners to have both parties submit supporting documents for initial briefing by September 25th and to have responsive briefings filed by October 23rd and to have the oral submission/argument November 5th and have a written decision out by the Commission on or before December 3rd.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Public Comment

None.

The Commission took a break at 9:57 a.m. and reconvened at 10:07 a.m.

Closed Session

Motion by DeMott to go into closed session pursuant to Iowa Code §§ 21.5(1)(a) & (d) & (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 Stolk.

Roll Call: Carminhato, aye; Clingman, aye; DeMott, aye; Duggan, aye; Duong, aye; Stolk, aye.

Motion passed unanimously.

The Commission entered into closed session at 10:08 a.m. and arose from there at 11:08 a.m.

Open Session

Motion by DeMott to return to open session.

Seconded by Duong.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to accept the signed settlements and/or consent agreements for the cases discussed in closed session and to authorize Evans (Executive Officer) to sign the accepted, signed Settlement Agreements/Consent Agreements for the following cases: 19-098, 20-091, and 20-106.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to find probable cause and to authorize Evans (Executive Officer) to sign the accepted, signed Settlement Agreement for IREC Case No. 20-137 as discussed in closed session.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk 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. 20-160.

Seconded by Duong.

Vote: Aye: Carminhato, DeMott, Duggan, Duong, Stolk Nay: Clingman Abstaining: None

Motion passed.

Motion by Clingman 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. 20-178.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to issue a "Notice of Intent to Deny License" for IREC Case No. 20-157.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to find probable cause for the following cases: 20-141, 20-146, and 20-191 as discussed in closed session.

Seconded by Clingman.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to close the following cases: 19-101, 19-197, 19-211, 20-087, 20-088, 20-120, 20-126, 20-131, 20-142, and 20-143 as discussed in closed session.

Seconded by Duong.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to close IREC Case No. 20-130 as discussed in closed session.

Seconded by Duong.

Vote: Aye: Carminhato, DeMott, Duggan, Duong, Stolk Nay: None Abstaining: Clingman

Motion passed.

Motion by Clingman to issue an Order Granting Modification of Settlement Agreement, allowing for a 30-day extension of the CPA Audit report due date (to October 12, 2020) for IREC Case No. 20-073.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 19-102 and the allegations of the unlicensed practice of real estate. No action taken as this complaint file will be tabled to a future meeting.

Discussion was held re: IREC Case No. 19-103 and the allegations of the unlicensed practice of real estate.

Motion by DeMott to close.

Seconded by Carminhato.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 20-098 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to close.

Seconded by Carminhato.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 20-128 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to issue a "Notice of Intent to Impose Civil Penalty".

Seconded by Carminhato.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Future Meetings

Investigation Committee Meetings

Wednesday, September 30
Wednesday, November 4
Wednesday, December 2
No January Meeting
Wednesday, February 3

Regularly Scheduled Meetings

Thursday, October 1
Thursday, November 5
Thursday, December 3
No January Meeting
Thursday, February 4

Meeting Adjourned

With all agenda items covered, the meeting adjourned at 11:27 a.m.

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

October 1, 2020
Date

M. L. FOR IREL
By: TERRANCE M. DUGGAN, Chair

Iowa Real Estate Commission Staff Report – As of 09/01/20 September 3, 2020 IREC Meeting

LICENSING TOTALS:

| | <u>Salespersons</u> | <u>Brokers</u> | <u>TOTAL IND. LICENSES</u> | <u>Firms</u> |
|--------------|---------------------|----------------|----------------------------|--------------|
| Active | 7,073 | 2,984 | | |
| Inactive | 1,337 | 368 | | |
| Suspended | 12 | 19 | | |
| TOTAL | 8,422 | 3,371 | 11,793 | 1,145 |

EXAMINATIONS ADMINISTERED BY PSI:

| | <u>2020</u> | <u>2019</u> | <u>2018</u> | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Broker | 143 | 267 | 296 | 296 | 298 | 324 |
| Salesperson | 1,549 | 2,280 | 2,040 | 2,091 | 1,796 | 1,638 |

BROKERS & SALESPERSONS PROCESSED APPLICATIONS:

| | <u>Year To Date</u> |
|------|---------------------|
| 2012 | 625 |
| 2013 | 835 |
| 2014 | 845 |
| 2015 | 972 |
| 2016 | 1,031 |
| 2017 | 978 |
| 2018 | 1,035 |
| 2019 | 1,057 |
| 2020 | 780 |

| | <u>Salespersons</u> | <u>Brokers</u> | <u>TOTAL SALESPERSON & BROKER LICENSES ISSUED (YTD 2020)</u> |
|--------------|---------------------|----------------|--|
| Exam | 659 | 38 | |
| Rule 5.3 | 58 | 11 | |
| Reciprocity | 11 | 3 | |
| TOTAL | 728 | 52 | 780 |

TOTAL FINGERPRINTS SUBMITTED TO FBI & DCI

| <u>Turnaround Time (Days)</u> | | <u>2020</u> |
|-------------------------------|----|---------------------|
| Minimum | 1 | Total Processed 849 |
| Maximum | 72 | |
| Average (YTD 2020) | 4 | |

AUDITS:

| | <u>Year To Date Totals</u> |
|----------------------|----------------------------|
| Continuing Education | 206 |
| E & O | 349 |
| Trust Account | 245 |

PERCENTAGE OF NONCOMPLIANCE FOR E&O AND CE AUDITS:

| <u>Year</u> | <u>E&O</u> | <u>Continuing Education</u> |
|-------------|----------------|-----------------------------|
| 2015 | 15.9% | 3.2% |
| 2016 | 23.44% | 4.7% |
| 2017 | 17.87% | 2.9% |
| 2018 | 4.16% | 0.59% |
| 2019 | 1.22% | 3.37% |
| 2020 | 14.90% | 1.94% |

INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:

| | | <u>Year To Date Totals</u> |
|--|-----------|----------------------------|
| Complaint Cases Opened YTD | | 204 |
| <u>Commission Action:</u> | | |
| Closed | 65 | |
| Closed with Informal Cautionary Letter | 18 | |
| Closed and Granted License | 7 | |
| Signed Informal Settlement Agreements | 39 | |
| Signed Applicant Consent Agreements | 9 | |
| Signed Cease and Desist by Consent Agreement | 3 | |
| Statement of Charges Filed | - | |
| License Denials | 1 | |
| Formal Hearings | - | |
| Total | 142 | |
| <u>IREC Staff Action:</u> | | |
| Closed | 35 | |
| License Suspension | - | |
| Other | 2 | |
| Total | <u>37</u> | |
| Complaint Cases Closed YTD | | 179 |
| Average Amount Of Time (Open To Close) | | 212 Days |

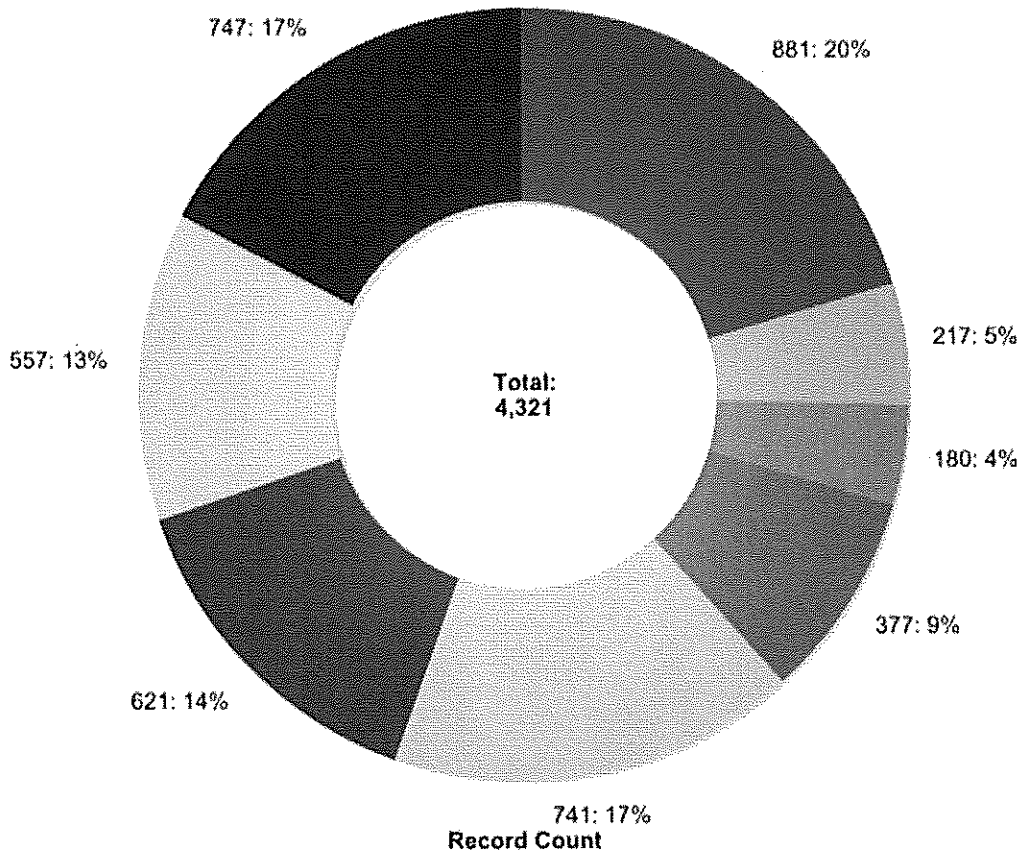
Disciplinary Action Totals:

| | |
|--|-----------|
| Civil Penalties Assessed | \$ 61,000 |
| Continuing Education Hours Assessed | 58 |
| CPA Audits Assessed | 2 |
| Trust Account Reexaminations Assessed | - |
| Probations Assessed | 1 |
| Suspensions Assessed | 3 |
| Revocations/Voluntary Surrenders | 1 |
| Cease and Desist Injunction | 3 |
| License Denial | 1 |
| Statement of Charges Filed (Outstanding) | - |

REAL ESTATE EDUCATION REPORT:

| | <u>Year To Date Totals</u> |
|------------------------------------|----------------------------|
| Course Approvals (New/Renewed) | 544 |
| Instructor Approvals (New/Renewed) | 76 |
| Provider Approvals (New/Renewed) | 12 |
| Pre/Post Course Approvals | 32 |
| Denied Courses | - |

IREC APPLICATIONS PROCESSED (2020):



| Type |
|--|
| ■ General - Request for Background Check Packet |
| ■ General - Request for License Verification (License History) |
| ■ RE Commission - Change Status to Active |
| ■ RE Commission - Change Status to Inactive |
| ■ RE Commission - Salesperson/Broker |
| ■ RE Commission - Transfer |
| ■ RE Commission - Authorized Course Application |
| ■ Other |