

Iowa Real Estate Commission
200 East Grand, Suite 350
Des Moines, IA 50309
MINUTES
November 5, 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
Helen Kimes	

Staff present for all or part of the meeting

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

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

Kristen Brend, Iowa Association of Realtors	Lauren McMillon, The CE Shop, Inc.
Gabe Walsh, Iowa Association of Realtors	Arthur Cox, UNI Director of Real Estate Education
Amanda Nagle, Iowa Association of Realtors	Byron Menke, Menke Auction & Realty, LLC
Michael Sorensen	Cody Edwards, Dickinson, Mackaman, Tyler & Hagen, P.C.
Jorge Gomez Jr, Gomez May LLP	Jen Burkamper
Tracy Jo Sorensen	Jamie Horbach
Scott Wendl, Re/Max Precision	Kathleen O'Neill, Department of Inspections and Appeals
Stephanie VanderKamp, Re/Max Precision	Ann Moyna, Court Reporter

Call to Order

Stolk called the meeting to order at 9:05 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 Clingman to approve the October 1, 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 Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Commissioner Reports

Stolk asked Evans to confirm he spoke with PSI about a complaint that was brought to his attention. Evans confirmed he spoke with PSI and that the issue was addressed with PSI personnel involved in the incident.

DeMott commended staff on their efforts with the online licensing database and acknowledged the challenges that they have faced the past four years.

Staff Reports

Lundquist had nothing to report.

SchraderBachar reports that rule changes pertaining to HF2627 will be ready to present at the December Commission meeting.

Evans asked Commissioners to sign and return their per diems by the end of the day. Evans explained Phase 2 of the "IDOB – PLB Returning to the Workplace" was moved back to January, 2021. Evans reported that staff and temporary staff, Hipp, are doing a great job. Evans announced that the renewal period for licenses that are set to expire on 12/31/2020 opens up on November 16th and applicants have a 45-day window to renew. Evans reported that approximately 4,600 licensees are up for renewal. Evans continued, of those 4,600, history shows that 700 – 1,000 licenses will not be renewed and consequently, they will lapse. Renewal information has been posted on the PLB website.

Petition for Declaratory Order

Evans went over the Order of Conduct for Proceedings. The Commission shall hear oral arguments from the Petitioner and Intervenor and each party shall be allowed fifteen minutes to argue their respective positions.

Lundquist explained the supplemental briefing material is available via the Google Drive and that Evans made the material available for review prior to today's meeting. Lundquist gave an overview of how the hearing would proceed. Edwards, as Petitioner will be allowed to go first. Then Walsh, the Intervenor will give his presentation. The hearing will end with an opportunity for Edward's rebuttal. Lundquist assured the Commissioners that it was okay to ask questions and/or ask for further clarification, if necessary. Following the presentations, Commissioners will instruct staff with the assistance of legal counsel to draft a proposed ruling that will be brought back on or before the December 3rd Commission meeting. The purpose of today's meeting is to have each party explain their respective position of the Declaratory Order and why they think the Commission should issue a ruling consistent with their argument.

Arthur Cox joined the meeting at 9:40 a.m.

Edwards, Petitioner representing Community Housing Initiatives, INC (CHI) presented his oral argument to the Commission.

Walsh, Intervenor representing the Iowa Association of Realtors (IAR) presented his oral argument to the Commission.

Edwards, Petitioner shared his rebuttal with the Commission.

Lundquist proposed dates for the close of business. Both parties agreed to submit their supplemental briefings by November 20th, 2020.

Motion by Stolk to request that staff prepare a written decision for D20-01 by December 3rd, 2020 and to allow the parties to submit supplemental briefings by November 20th and to issue a final ruling by December 18th, 2020.

Seconded by Carminhato.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Edwards, Horbach, and Burkamper left the meeting at 10:15 a.m.

Ann Moyna joined the meeting at 10:16 a.m.

Accommodations Due to COVID-19

Evans shared with the Commission the draft document and the updated revisions in response to the Governor's extension of the Emergency Proclamation through November 15, 2020. Specifically, the document addresses Section Seventy-Eight of the Governor's Emergency Proclamation and the guidance the Commission will provide for licenses that expire on 12/31/20 if the State Public Health Emergency Declaration extends through December 31, 2020.

Motion by DeMott 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 Clingman.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

2020 Legislation Update

Evans reports that Bureau rule changes pertaining to HF 2627 will be available for Commissioners at the December meeting. Evans directed Commissioners to the Criminal Offenses Relating to the Real Property Appraiser Profession document and the Criminal Code List within Google Drive. No further discussion was necessary and no changes were requested by Commissioners.

Lundquist reviewed preparations necessary for the implementation of House File 2627, which is to go into effect January 1, 2021. As part of this legislation, the Commission must put together a list of criminal convictions that could disqualify someone from licensure. Lundquist asked the Commission to review the Criminal Code list and be prepared to adopt a list at the December Commission meeting.

Public Comment

None.

Mike Sorensen, Jorge Gomez Jr, and Scott Wendl joined the meeting at 10:20 a.m.

The Commission took a break at 10:21 a.m. and reconvened at 10:30 a.m.

Formal Hearing

A hearing was held before the Commission in Case No. 20-157. Administrative Law Judge Kathleen O'Neill 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 10:30 a.m. and concluded at 12:29 p.m.

Closed Session (1)

Motion by Clingman to enter into closed session pursuant to Iowa Code 21.5(1)(f) to deliberate IREC Case No. 20-157.

Seconded by Kimes.

Roll Call: Carminhato, aye; Clingman, aye; DeMott, aye; Duggan, aye; Duong, aye; Kimes, aye; Stolk, aye.
Motion passed unanimously.

The Commission entered into closed session at 12:29 p.m. and arose from there at 1:19 p.m.

Open Session (1)

Motion by DeMott to return to open session.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to request that Administrative Law Judge O'Neill prepare a written decision for IREC Case No. 20-157 in accordance with the findings and deliberations made in closed session.

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

The Commission took a break at 1:23 p.m. and reconvened at 1:30 p.m.

Closed Session (2)

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 Clingman.

Roll Call: Carminhato, aye; Clingman, aye; DeMott, aye; Duggan, aye; Duong, aye; Kimes, aye; Stolk, aye.
Motion passed unanimously.

The Commission entered into closed session at 1:35 p.m. and arose from there at 2:07 p.m.

Open Session (2)

Motion by Stolk to return to open session.

Seconded by Kimes.

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: 16-219, 17-258, 17-284, 18-138, 19-086, 19-137, 20-033, 20-122, and 20-146.

Seconded by DeMott.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Kimes to find probable cause and to authorize Evans (Executive Officer) to sign the accepted, signed Settlement Agreement for the following cases: 20-139, 20-183, 20-187, 20-193, 20-194, 20-197, 20-198, and 20-211 as discussed in closed session.

Seconded by Clingman.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to grant licensure for IREC Case No. 20-253 and 20-275.

Seconded by Carminhato.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to find probable cause for the following cases: 16-312, 16-331, 16-387, 16-388, 19-221, 20-046, 20-161, 20-162, 20-164, 20-165, 20-168, 20-169, 20-170, 20-171, 20-172, 20-173, 20-180, 20-192, 20-212, and 20-270 as discussed in closed session.

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to close the following cases: 19-242, 20-150, 20-174, 20-201, and 20-202 as discussed in closed session.

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Clingman to rescind the probable cause finding and close IREC Case No. 15-044.

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed.

Discussion was held re: IREC Case No. 17-279 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to accept the signed Cease and Desist Order by Consent Agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Consent Agreement.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 17-280 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to accept the signed Cease and Desist Order by Consent Agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Consent Agreement.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 17-281 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to accept the signed Cease and Desist Order by Consent Agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Consent Agreement.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 17-282 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to accept the signed Cease and Desist Order by Consent Agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Consent Agreement.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 17-283 and the allegations of the unlicensed practice of real estate.

Motion by Clingman to accept the signed Cease and Desist Order by Consent Agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Consent Agreement.

Seconded by Stolk.

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.

Motion by Kimes to close.

Seconded by Stolk.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 20-221 and the allegations of the unlicensed practice of real estate.

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

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 20-222 and the allegations of the unlicensed practice of real estate.

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

Seconded by Kimes.

Vote: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Future Meetings

Investigation Committee Meetings

Wednesday, December 2
No January Meeting
Wednesday, February 3

Regularly Scheduled Meetings

Thursday, December 3
No January Meeting
Thursday, February 4

Meeting Adjourned

With all agenda items covered, the meeting adjourned at 2:36 p.m.

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

December 3, 2020
Date

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

**Iowa Real Estate Commission
Staff Report – As of 11/01/20
November 5, 2020 IREC Meeting**

LICENSING TOTALS:

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL IND. LICENSES</u>	<u>Firms</u>
Active	7,211	2,991		
Inactive	1,385	372		
Suspended	12	19		
TOTAL	8,608	3,382	11,990	1,152

EXAMINATIONS ADMINISTERED BY PSI:

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Broker	179	267	296	296	298	324
Salesperson	2,104	2,280	2,040	2,091	1,796	1,638

BROKERS & SALESPERSONS PROCESSED APPLICATIONS:

	<u>Year To Date</u>
2011	562
2012	625
2013	835
2014	845
2015	972
2016	1,031
2017	978
2018	1,035
2019	1,057
2020	983

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL SALESPERSON & BROKER LICENSES ISSUED (YTD 2020)</u>
Exam	835	44	
Rule 5.3	72	15	
Reciprocity	12	5	
TOTAL	919	64	983

TOTAL FINGERPRINTS SUBMITTED TO FBI & DCI

<u>Turnaround Time (Days)</u>		<u>2020</u>
Minimum	1	Total Processed 1,116
Maximum	72	
Average (YTD 2020)	6	

AUDITS:

	<u>Year To Date Totals</u>
Continuing Education	262
E & O	435
Trust Account	328

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	17.47%	1.53%

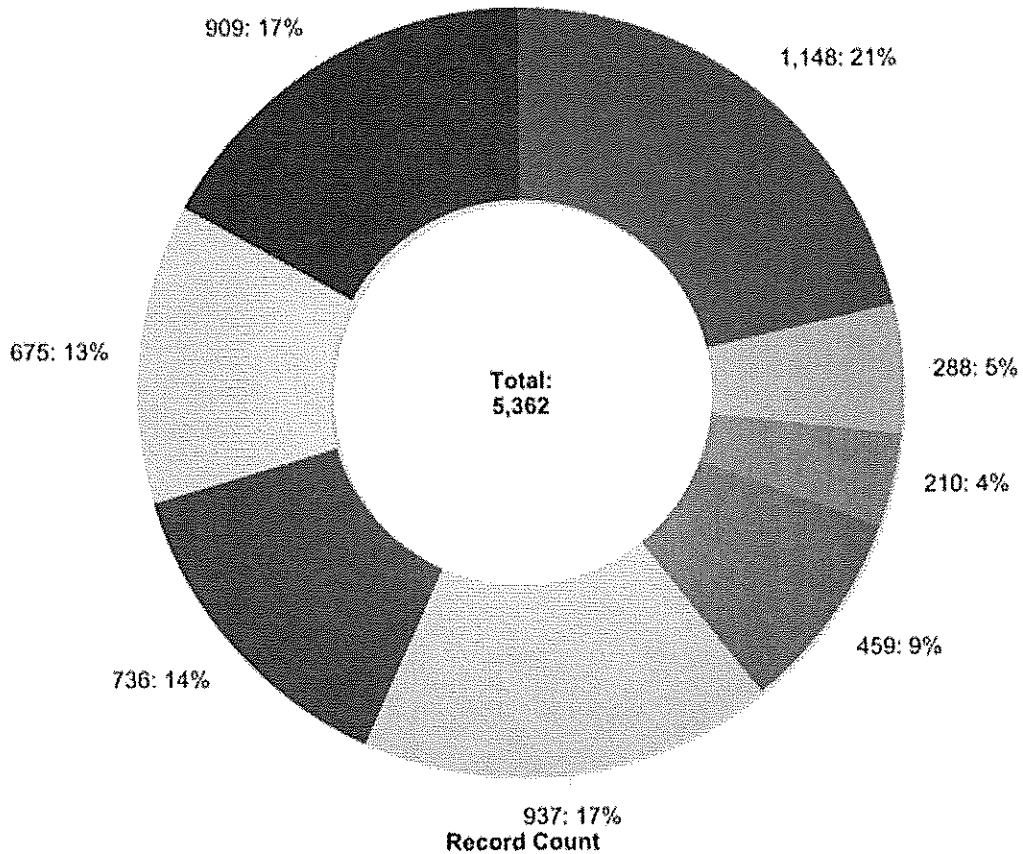
INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:

		<u>Year To Date Totals</u>
Complaint Cases Opened YTD		287
<u>Commission Action:</u>		
Closed	83	
Closed with Informal Cautionary Letter	24	
Closed and Granted License	7	
Signed Informal Settlement Agreements	55	
Signed Applicant Consent Agreements	12	
Signed Cease and Desist by Consent Agreement	4	
Statement of Charges Filed	4	
License Denials	1	
Formal Hearings	-	
Total	190	
<u>IREC Staff Action:</u>		
Closed	41	
License Suspension	-	
Other	2	
Total	43	
Complaint Cases Closed YTD		233
Average Amount Of Time (Open To Close)		235 Days
<u>Disciplinary Action Totals:</u>		
Civil Penalties Assessed	\$ 96,250	
Continuing Education Hours Assessed	58	
CPA Audits Assessed	2	
Trust Account Reexaminations Assessed	-	
Probations Assessed	2	
Suspensions Assessed	3	
Revocations/Voluntary Surrenders	1	
Cease and Desist Injunction	4	
License Denial	1	
Statement of Charges Filed (Outstanding)	4	

REAL ESTATE EDUCATION REPORT:

	<u>Year To Date Totals</u>
Course Approvals (New/Renewed)	662
Instructor Approvals (New/Renewed)	97
Provider Approvals (New/Renewed)	15
Pre/Post Course Approvals	40
Examination Authorization	18

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

IREC LICENSES WITH 12/31/20 EXPIRATION DATE:

