

Iowa Real Estate Commission
200 East Grand, Suite 350
Des Moines, IA 50309
MINUTES
May 7, 2015

Commissioners present for all or part of the meeting:

Terry Duggan, Chair	Jan DeMott
Dennis Stolk, Vice Chair	Helen Kimes
Carol Haines	Michael Telford

Commissioners absent:

John Goede

Staff present for all or part of the meeting:

Jeff Evans, Executive Officer	Jill Simbro, Education Director
John Lundquist, Assistant Attorney General	Renee Paulsen, Licensing Specialist
Sandy Malek, Investigator	Lori SchraderBachar, Site Manager
Colleen Goddard, Trust Account Auditor	

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

Hannah Kustes

Call to Order:

Duggan called the meeting to order at 9:00 a.m.
Quorum was established.

Motion by Kimes to approve the agenda.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Election of Officers

Motion by Stolk to nominate Duggan as chair.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: Duggan

Motion passed.

Motion by Telford to nominate Stolk as vice chair.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: Stolk

Motion passed.

Motion by Telford to approve the open session and the closed session April 2, 2015 minutes.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Commissioner Reports:

None

Staff Reports:

Lundquist provided a copy of a recent bill that was passed by both the House and the Senate and signed by Governor Branstad on April 24, 2015. The bill allows the office of Ombudsman access to the closed session minutes and recordings without a court order.

SchraderBachar announced that Paulsen has been promoted to the Background Coordinator effective May 8th. The clerk position is now vacant.

Evans reminded the Commissioners to properly complete, along with sign and date their per diem forms and travel vouchers for their time and travel expenses while attending the meeting. Evans provided the Commissioners the IREC Staff Report for the month of April 2015. Evans reported Malek and other PLB staff have completed the project of placing all of the past IREC disciplinary orders online. Any person can search for all final real estate disciplinary orders on the PLB website at <https://plb.iowa.gov/real-estate-sales-brokers/disciplinary-index>. Lastly, Evans reported that on April 21st the Commission was audited by the FBI Criminal Justice Information Services Division (CJIS). Topics discussed included the IREC's use, dissemination and maintenance of the Criminal History Record Information (CHRI) received from the FBI. The results overall were positive, however Commission staff were informed that they needed to provide better notification of the steps an applicant would have to take to appeal or protest their criminal history. Evans reported that IREC staff has since made the appropriate changes on their waiver, applicable correspondence and also included the information on the Q & A section of the PLB website.

ARELLO

In April, Evans and Duggan both attended the ARELLO 2015 Mid-year Meeting, which was held in Albuquerque, New Mexico. Evans presented the Commission with a report, providing meeting highlights. Evans mentioned that one of the highly talked about topics was unlicensed practice, including David Marsh, a licensed attorney and consultant for ARELLO, giving a 15 minute presentation on the recent Supreme Court ruling in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. Duggan talked about use of drones in real estate which was discussed at the meeting. Duggan also reported about the significant changes to the closing process when the rule for integrated mortgage disclosures goes into effect August 1, 2015. The rule integrates forms required under the Truth-in-Lending Act (TILA) and Real Estate Settlement and Procedures Act (RESPA). A Loan Estimate will replace the current Good Faith Estimate and early TIL disclosure, while a Closing Disclosure will replace the HUD-1 and final TIL disclosure.

Communications:

After discussion, **Motion made by DeMott to grant waiver 15-05.** Hannah Kustes, petitioner, spoke to the Commission and spoke about her fifteen years of experience as the Vice President of Adobe Construction Inc., actively working with licensees on a daily basis on behalf of the company's owned properties. The petitioner, who currently has an active salesperson license with the State of Iowa, 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.

DeMott, aye; Duggan, aye; Stolk, aye; Telford, aye; Kimes, nay; Haines, nay
Motion passed.

Formal Hearing

A hearing was held before the Commission in Case 14-236. The hearing was conducted by Administrative Law Judge Heather Palmer. The disciplinary hearing was opened to the public at the Respondent's request, pursuant to Iowa Code section 272C.6(1). The hearing commenced at 9:50 a.m. and concluded at 11:20 a.m.

Closed Session

Motion made by Kimes for the Commission to go into closed session pursuant to Iowa Code Section 21.5(1)(f) to deliberate its decision in Case 14-236.

Seconded by Stolk.

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

Motion passed unanimously.

The Commission entered into closed session at 11:30 a.m. and arose there from at 11:35 a.m.

Open Session

Motion made by Telford to return to open session.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion made by Stolk to direct Administrative Law Judge Palmer to prepare a written decision for Case 14-236 in conformance with the Commission's deliberations in closed session.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Communications (Continued):

After discussion, **Motion made by Telford to grant waiver 15-06, allowing for the petitioner to be licensed as a real estate salesperson in the state of Iowa.** Melissa Johnson, petitioner, who is a licensed broker in the State of Illinois and applicant for real estate licensure in the state of Iowa, asked the Commission for a waiver of 193E Iowa Administrative Code § 5.1(2) and the requirement that a licensed broker or broker associate in another jurisdiction making application in Iowa as provided in rule 193E 5.3 shall qualify only for the same type of broker or broker associate license in Iowa.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Public Comment:

None

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: Duggan, aye; Haines, aye; Stolk, aye; DeMott, aye; Kimes, aye; and Telford, aye.

Motion passed unanimously.

The Commission entered into closed session at 11:45 a.m. and arose there from at 12:20 p.m.

Open Session:

Motion by Telford to return to open session.

Seconded by Haines.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by DeMott to accept the signed settlement and/or consent agreements and to authorize Duggan (Chair), Stolk (Vice Chair) or Evans (Executive Officer) to sign the accepted settlement and/or consent agreements for the following cases: 11-104, 14-060, 15-016, 15-028, 15-029, 15-038, 15-039 and 15-047.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by DeMott to accept the signed settlement and/or consent agreements and to authorize Duggan (Chair) or Evans (Executive Officer) to sign the accepted settlement and/or consent agreements for the following cases: 14-125 and 14-126.

Seconded by Telford.

VOTE: Aye: All Nay: None Abstaining: Stolk

Motion passed.

Motion by Haines to find probable cause and to authorize Duggan (Chair), Stolk (Vice Chair) or Evans (Executive Officer) to sign the accepted signed settlement agreement for the following cases: 15-042, 15-056, 15-057, 15-083, 15-086, 15-103, 15-105 and 15-111

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Telford to find probable cause and to authorize Duggan (Chair), Stolk (Vice Chair) or Evans (Executive Officer) to sign the accepted signed Voluntary Surrender for Case No. 15-052.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Haines to enter into a Consent Agreement with the applicant, authorize Evans (Executive Officer) to sign on behalf of the Commission, and then grant licensure for Case No. 15-118.

Seconded by DeMott.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Telford to grant real estate licensure for Case No. 15-122.

Seconded by Stolk.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Haines to find probable cause for the following cases: 14-166, 14-175, 14-228, 15-036, 15-096, 15-097, 15-109, 15-112, 15-113, 15-114, 15-115, 15-121, 15-123 and 15-134.

Seconded by Kimes.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Motion by Stolk to close the following cases: 13-144, 15-073, 15-076, 15-087, 15-091 and 15-106.

Seconded by Telford.

VOTE: Aye: All Nay: None Abstaining: None

Motion passed unanimously.

Meeting Schedule:

Future IREC meetings are tentatively scheduled as follows:

Investigation Committee

Wednesday, June 3rd (Duggan, Kimes)

No July Meeting

Wednesday, August 5 (DeMott, Telford)

Wednesday, September 2

Wednesday, September 30

Wednesday, November 4

Wednesday, December 2

Commission Meetings

Thursday, June 4th

No July Meeting

Thursday, August 6

Thursday, September 3

Thursday, October 1

Thursday, November 5

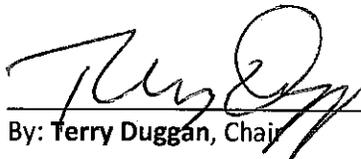
Thursday, December 3

Meeting Adjourned

With all agenda items covered, the meeting adjourned at 12:28 p.m.

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

6-4-14
Date


By: Terry Duggan, Chair

**Iowa Real Estate Commission
 Staff Report (For April 2015)
 May 7, 2015 IREC Meeting**

LICENSING TOTALS:

	<u>Firms</u>	<u>Brokers</u>		<u>Salespeople</u>		<u>TOTAL LICENSEES</u>
		<u>Active</u>	<u>Inactive</u>	<u>Active</u>	<u>Inactive</u>	
April 2015	1,234	3,392	412	5,556	1,225	10,585
April 2014	1,208	3,394	440	5,317	1,231	10,382

EXAMINATIONS ADMINISTERED BY PSI:

	<u>March</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
Broker	30	73	315	281	207	245	233
Salesperson	154	406	1,501	1,212	952	781	916

BROKERS & SALESPERSONS PROCESSED APPLICATIONS:

	<u>April</u>	<u>Year To Date</u>
2007		1,113
2008		861
2009		531
2010		604
2011		562
2012		625
2013		835
2014		845
2015	101	433

BACKGROUND CHECKS:

Year to Date average turnaround time is 19 days.

AUDITS:

	<u>April</u>	<u>Year To Date Totals</u>
Continuing Education	50	152
E & O	78	278
Trust Account	32	98

PERCENTAGE OF NONCOMPLIANCE FOR E&O AND CE AUDITS:

<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	4.8%	1.8%
2015	17.6%	3.3%

INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:

	<u>April</u>	<u>Year To Date Totals</u>
Complaint Cases Opened	28	134
Final Case Disposition	32	103
Signed Informal Settlement Agreements	15	37
Signed Applicant Consent Agreements	4	12
Signed Cease and Desist by Consent Agreement	-	2
Formal Hearings	-	-
License Denials	1	2
Civil Penalties Assessed	-	\$44,500
Continuing Education Hours Assessed	-	24
CPA Audits Assessed	-	-
Trust Account Reexaminations Assessed	-	2
Probation Time Assessed	-	-
Suspensions	-	-
Indefinite Suspensions	-	-
Revocations/Voluntary Surrenders	-	-

REAL ESTATE EDUCATION REPORT:

	<u>April</u>	<u>Year To Date Totals</u>
Course Approvals	33	183
Instructor Approvals	8	20
Provider Approvals	0	9
Post Course Approvals	2	9
Prior Course Approvals	0	3
Denied Courses	1	5