

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE REAL ESTATE COMMISSION
VIA VIDEOCONFERENCE**

TIME: 10:35 A.M.

November 17, 2020

State Real Estate Commission
November 17, 2020

COMMISSION MEMBERS:

Anne M. Rubin, Chair, Industry Member
Joseph J. McGettigan, Vice Chair, Industry Member
Jeffrey J. Johnson, Industry Member
Joseph Tarantino, Industry Member
Armand N. Ferrara Jr., Industry Member
Jennifer Thomson, Esquire, Attorney General Designee
Edward L. Seebeck, Cemetery Member - Absent
Gaetano P. Piccirilli, Esquire, Public Member
K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs

COMMISSION PERSONNEL:

Juan A. Ruiz, Esquire, Commission Counsel
Timothy A. Fritsch, Esquire, Commission Prosecution
Liaison
Angela B. Lucci, Esquire, Commission Prosecutor
Caroline A. Bailey, Esquire, Commission Prosecutor
Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution
Division
Tiffany A. Raker, Esquire, Commission Prosecutor
Krista Linsenbach, Commission Administrator
Cynthia K. Montgomery, Esquire, Deputy Chief
Counsel/Regulatory Counsel, Department of State
Theodore Stauffer, Executive Assistant, Bureau of
Professional and Occupational Affairs
Marc Farrell, Deputy Policy Director, Department of
State
Andrew LaFratte, MPA, Policy Office, Department of
State

ALSO PRESENT:

Jen Smeltz, Executive Director, Consumer Protection
and Professional Licensure Committee
Lauren McMillan, The CE Shop
Michael McGee, CAE, Chief Executive Officer,
Pennsylvania Association of Realtors
Nicole Sidle, Majority Committee Executive Director,
House Professional Licensure Committee

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ALSO PRESENT: (Continued)

Wayne C. Crawford, Esquire, Public Policy Manager,
Pennsylvania Association of Realtors
Charles Hartwell, Esquire, Dethlefs-Pykosh Law
Group, LLC

1 ***

2 State Real Estate Commission

3 November 17, 2020

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:00 a.m. the Commission entered into Executive
7 Session with Juan A. Ruiz, Esquire, Commission
8 Counsel, for the purpose of conducting quasi-judicial
9 deliberations on matters currently pending before the
10 Commission and to receive the advice of counsel. The
11 commission returned to open session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State Real
14 Estate Commission was held on Tuesday, November 17,
15 2020. Anne M. Rubin, Chair, Industry Member,
16 officially called the meeting to order at 10:35 a.m.

17 K. Kalonji Johnson, Commissioner, Bureau of
18 Professional and Occupational Affairs, was not present
19 during commencement of the meeting.

20 ***

21 [Introduction of Commission Members and Audience]

22 ***

23 Approval of minutes of the October 6, 2020 meeting

24 CHAIR RUBIN:

25 Do I have a motion to approve the draft

1 minutes?

2 MR. MCGETTIGAN:

3 So moved.

4 MR. FERRARA:

5 Second.

6 CHAIR RUBIN:

7 Any discussion? All in favor? Any
8 abstentions? Any opposed?

9 [The motion carried. Gaetano Piccirilli abstained
10 from voting on the motion.]

11 ***

12 Report of Prosecutorial Division

13 [Angela B. Lucci, Esquire, Commission Prosecutor,
14 presented the Consent Agreements for Case No. 19-56-
15 006776, Case No. 19-56-001213, and Case Nos. 19-56-
16 001359 & 20-56-008739.

17 Charles J. Hartwell, Esquire, Counsel for the
18 Respondent, was present for the discussion on Case
19 Nos. 19-56-001359 & 20-56-008739.]

20 ***

21 [Caroline A. Bailey, Esquire, Commission Prosecutor,
22 withdrew Case No. 15-56-01972 from consideration. She
23 presented the Consent Agreements for Case No. 17-56-
24 06851 and Case No. 20-56-00600.]

25 ***

1 [Tiffany A. Raker, Esquire, Commission Prosecutor,
2 presented the Consent Agreement for Case No. 19-56-
3 007288.]

4 ***

5 [Timothy A. Fritsch, Esquire, Commission Prosecution
6 Liaison, presented the Consent Agreement for Case No.
7 18-56-004912.]

8 ***

9 MR. RUIZ:

10 Is there a motion to deny the Consent
11 Agreement at Case No. 19-56-006776 as
12 being too lenient?

13 MR. MCGETTIGAN:

14 So moved.

15 MR. FERRARA:

16 Second.

17 CHAIR RUBIN:

18 All in favor? Any opposed?

19 [The motion carried unanimously.]

20 ***

21 MR. RUIZ:

22 Is there a motion to approve the Consent
23 Agreement at Case No. 19-56-001213?

24 MR. JOHNSON:

25 So moved.

1 CHAIR RUBIN:

2 We need a second.

3 MR. TARANTINO:

4 Second.

5 CHAIR RUBIN:

6 Any discussion? All in favor?

7 [The motion carried unanimously. The Respondent's
8 name is Pietro M. Bianco.]

9 ***

10 MR. RUIZ:

11 Is there a motion to reject the Consent
12 Agreement at Case No. 19-56-001359 & 20-
13 56-008739 as being too lenient?

14 MR. FERRARA:

15 So moved.

16 MR. MCGETTIGAN:

17 Second.

18 CHAIR RUBIN:

19 Any discussion? All in favor? Opposed?

20 [The motion carried unanimously.]

21 ***

22 MR. RUIZ:

23 Case No. 15-56-01972 has been withdrawn.

24 ***

25 MR. RUIZ:

1 Is there a motion to deny the Consent
2 Agreement at Case No. 17-56-06851 as
3 being too lenient?

4 MR. JOHNSON:

5 Motion.

6 CHAIR RUBIN:

7 Second?

8 MR. PICIRILLI:

9 Second.

10 CHAIR RUBIN:

11 Any discussion? All in favor? Opposed?

12 [The motion carried unanimously.]

13 ***

14 MR. RUIZ:

15 Is there a motion to approve the Consent
16 Agreement at Case No. 20-56-000600?

17 MR. MCGETTIGAN:

18 So moved.

19 MR. JOHNSON:

20 Second.

21 CHAIR RUBIN:

22 Any discussion? All in favor? Opposed?

23 [The motion carried unanimously. The Respondent's
24 name is Jackie Singer.]

25 ***

1 MR. RUIZ:

2 Is there a motion to approve the Consent
3 Agreement at Case No. 19-56-007288?

4 MR. MCGETTIGAN:

5 So moved.

6 MR. TARANTINO:

7 Second.

8 CHAIR RUBIN:

9 Any discussion? All in favor? Any
10 opposed?

11 [The motion carried unanimously. The Respondent's
12 name is Kelly M. Whitman aka Kelly M. Bower.]

13 ***

14 MR. RUIZ:

15 Is there a motion to reject the Consent
16 Agreement at Case No. 18-56-004912 as
17 being too harsh?

18 MR. FERRARA:

19 So moved.

20 MR. MCGETTIGAN:

21 Second.

22 CHAIR RUBIN:

23 Any discussion? All in favor? Opposed?

24 [The motion carried unanimously.]

25 ***

1 Report of Commission Counsel

2 MR. RUIZ:

3 Is there a motion to approve the Final
4 Adjudication and Order in the Case of
5 Jasmine Williams at Case No. 13-56-07243
6 & 13-56-11584?

7 MR. MCGETTIGAN:

8 So moved.

9 MR. JOHNSON:

10 Second.

11 CHAIR RUBIN:

12 Any discussion? All in favor? Opposed?

13 [The motion carried unanimously.]

14 ***

15 [Juan A. Ruiz, Esquire, Commission Counsel, noted
16 discussion during Executive Session concerning the
17 educational requirements for licensure.]

18 ***

19 Report of Commission Chairperson

20 [Anne M. Rubin, Chair, Industry Member, announced this
21 would be her final meeting as chairperson. She
22 commented on such a strange year for everyone and
23 being the chair but was grateful for that opportunity.
24 She mentioned the Commission was closer to completing
25 the rules and regulations, which was one of her goals.]

1 Chair Rubin addressed the need for discussion
2 concerning the educational requirements and requested
3 input from the Pennsylvania Association of Realtors
4 (PAR). She mentioned adjusting the regulation from a
5 bachelor's degree to an associate's degree. She
6 stated it was not about the degree but the content of
7 the courses. She commented that the regulation should
8 be determining whether individuals have equivalent
9 content in courses for their degree.

10 Mr. McGettigan suggested having a course that
11 outlines the rules and regulations of the Real Estate
12 Commission as the minimum requirement and to ensure
13 every applicant has that information.

14 Ms. Thomson requested information as to why the
15 particular degrees were chosen originally. She
16 suggested gaining a better understanding before
17 eliminating any requirement.

18 Chair Rubin explained that the requirement had
19 been narrowed to a real estate degree, but there were
20 real estate degrees that do not cover any training a
21 licensee would need to practice in Pennsylvania.

22 Ms. Thomson expressed her concern with taking the
23 requirements out entirely and replacing them with a
24 waiver process. She preferred specific degrees in the
25 regulation and did not believe in eliminating and

1 replacing the degrees entirely. She suggested
2 including the degrees and requiring a prescribed
3 course with set topics should an individual receive a
4 waiver.

5 Chair Rubin stated the Commission only approves
6 courses. The Commission does not control the courses
7 that are offered by the real estate schools, which may
8 cause a problem if the course were not offered as
9 continuing education (CE).

10 Mr. McGettigan added that this also includes
11 colleges and universities, which is where individuals
12 are receiving these degrees. He suggested 7 hours of
13 the 14-hour mandatory requirement for new licensees
14 cover the rules and regulations, which would be taken
15 before beginning their practice.

16 Michael McGee, CAE, Chief Executive Officer,
17 Pennsylvania Association of Realtors, commented that
18 the issue was new but would provide feedback from PAR
19 at the first 2021 meeting.

20 Chair Rubin thanked everyone for their support
21 this year, especially the staff, stating it had been
22 an honor to serve the Commission.]

23 ***

24 Report of Commission Administrator

25 [Krista Linsenbach, Commission Administrator,

1 announced the completion of real estate education
2 provider renewals on October 31, 2020, with an 85%
3 renewal rate. She noted promotional property renewals
4 opened on October 22, 2020, with no renewals from the
5 26 eligible licensees. The renewal time period would
6 expire on December 31, 2020.

7 Ms. Linsench noted conflicts with the 2021
8 meeting dates that were previously approved and
9 referred to the new final meeting dates for the
10 Commission's approval.]

11 ***

12 Report of Committees - Education/Examination

13 MR. FERRARA:

14 We have a broker exam eligibility
15 extension request from Greg MacAdam. A
16 motion is made to deny his request.

17 CHAIR RUBIN:

18 Do I have a second?

19 MR. MCGETTIGAN:

20 Second.

21 CHAIR RUBIN:

22 Any discussion? All in favor? Any
23 opposed?

24 [The motion carried unanimously.]

25 ***

1 MR. FERRARA:

2 We have a salesperson education review
3 from Alexander Keszeli. He has a
4 master's in real estate and a degree in
5 business administration. Motion to
6 approve his request.

7 MR. MCGETTIGAN:

8 Second.

9 CHAIR RUBIN:

10 Any discussion? All in favor?

11 [The motion carried unanimously.]

12 ***

13 Enforcement Committee (Application Review)

14 MR. TARANTINO:

15 There is a review of application for
16 Joseph Keim due to convictions that he
17 had in 2016 concerning burglary.

18 Is there a motion to preliminarily
19 deny the application and advise the
20 applicant of their right to an informal
21 conference?

22 MR. JOHNSON:

23 So moved.

24 CHAIR RUBIN:

25 Is there a second?

1 MR. FERRARA:

2 Second.

3 CHAIR RUBIN:

4 Any discussion? All in favor? Any
5 opposed?

6 [The motion carried unanimously.]

7 ***

8 Old/New Business

9 [Michael McGee, CAE, Chief Executive Officer,
10 Pennsylvania Association of Realtors, thanked the
11 Commission for approving fair housing as the required
12 topic for the current continuing education cycle. He
13 stated the National Association of Realtors continues
14 to introduce programs to address housing and
15 discrimination. He noted fair housing protects
16 livelihoods and businesses and depends on a free open
17 market that embraces equal opportunity.

18 Mr. McGee stated the National Association of
19 Realtors (NAR) rolled out implicit bias training and
20 will be introducing two self-testing programs. He
21 mentioned NAR's Board of Directors approved
22 recommendations and extended the application of its
23 Code of Ethics to discriminatory speech and conduct.

24 Mr. McGee commented that the Code of Ethics
25 prohibits realtors from discriminating in the

1 provision of professional services and employment
2 practice. He also noted NAR expanded the Code of
3 Ethics for applicability to all of the realtors'
4 activities that might violate this provision, not just
5 those related to real estate transactions.

6 Mr. McGee stated NAR also approved a revision to
7 the bylaws expanding the definition of public trust to
8 include all discrimination against protected classes
9 under the code along with all fraud. He commented
10 that associations are required to share with the Real
11 Estate Commission final ethic decisions holding
12 realtors in violation of the Code of Ethics in
13 instances involving real estate-related activities and
14 transactions where there would be reason to believe
15 public trust may have been violated. He noted all
16 changes would immediately be effective.

17 Mr. McGee will continue to urge the Commission
18 and the Bureau of Professional and Occupational
19 Affairs (BPOA) staff to maintain an open dialogue with
20 PAR's leaders and staff with regard to administrative
21 licensure issues.

22 Mr. McGee informed the Commission that PAR staff
23 continues to field calls from licensees asking a host
24 of questions regarding troubles with the Pennsylvania
25 Licensing System (PALS).

1 Mr. McGee read a statement from William Festa,
2 President, Pennsylvania Association of Realtors,
3 regarding his last Commission meeting as president of
4 PAR.

5 Chair Rubin thanked PAR for acknowledging the
6 required CE course but cautioned PAR in marketing it
7 as fair housing.

8 Chair Rubin addressed new NAR provisions in the
9 Code of Ethics concerning speech going beyond real
10 estate transactions. She noted receiving a question
11 from someone concerned because their religious beliefs
12 do not align with the language and suggested PAR
13 formulate answers.

14 Chair Rubin expressed appreciation to Mr. Festa
15 from all of the Commissioners for his involvement and
16 effort, not only on behalf of the association but on
17 behalf of all licensing boards.

18 Mr. McGee mentioned that NAR has a rather
19 extensive interpretations packet and policies with
20 guidance on how grievance committees and hearing
21 panels should respond to filed complaints, noting the
22 guidance will continue to evolve and PAR will carry
23 their message as much as possible.]

24 ***

25 Report of Commissioner - No Report

Miscellaneous - Act 53 List of Offenses

[K. Kalonji Johnson, Commissioner, Bureau of Professional and Occupational Affairs, thanked Chair Rubin for allowing his presentation along with Deputy Chief Counsel Montgomery. He thanked the Commissioners for their continued patience and resilience as they navigate through the virtual platform. He asked the Commission to approve the list as presented to start the formal promulgation and regulatory process to make the list of offenses official.

Commissioner Kalonji Johnson stated Act 53 was enacted in June 2020 and is a comprehensive update to the Criminal History Records Information Act (CHRIA), which controls the use of criminal history by boards and commissions under the auspices of the Department of State when making determinations for licensure.

Commissioner Kalonji Johnson stated Act 53 provides a number of guidelines expected to better empower and educate the public about how criminal history is used and to provide clarification for the boards and commissions on utilizing the criminal history. He noted the Act did not necessarily change the practice of the Commission with respect to making

1 determinations on licensure but created more
2 transparency of the process for licensees and
3 applicants.

4 Commissioner Kalonji Johnson noted being directed
5 to consult with all of the Commissions and Boards
6 under the Department with respect to the lists. He
7 also has been directed to publish a list of the
8 offenses and administer a best practices guide to
9 instruct potential applicants and current licensees on
10 navigating the licensure process with respect to
11 criminal history.

12 Commissioner Kalonji Johnson noted it to also be
13 his responsibility to provide forums, where members of
14 the business community and stakeholders have the
15 opportunity to provide feedback and respond to the
16 lists. He emphasized the lists are initial lists and
17 can be modified and amended. He mentioned that the
18 Commission's approval simply meant moving forward in
19 the process. The list would still be subject to the
20 formal regulatory process.

21 Cynthia K. Montgomery, Esquire, Deputy Chief
22 Counsel/Regulatory Counsel, Department of State,
23 addressed Act 53 of 2020. She mentioned that one of
24 Commissioner Kalonji Johnson's responsibility is to
25 consult with members of the business community with

1 knowledge of the profession. She noted receiving no
2 written comments after sending the list to interested
3 parties and stakeholders but offered to hear any
4 comments from individuals participating in the
5 meeting.]

6 ***

7 MR. JOHNSON:

8 I make a motion to approve.

9 CHAIR RUBIN:

10 We have a motion to approve. Do we have
11 a second? Could we have a second?

12 MS. THOMSON:

13 I'll second.

14 [Mr. McGettigan recommended DUI be added to the list.
15 The Commission discussed the motion.]

16 CHAIR RUBIN:

17 We have a motion and a second, and we
18 are having discussion. Is there any
19 further discussion?

20 COMMISSIONER KALONJI JOHNSON:

21 I believe Commissioner McGettigan,
22 through discussion, has raised the
23 question of whether the list should be
24 amended to include driving under the
25 influence (DUI).

1 My question to the Commission is
2 whether that inquiry should be expanded
3 into a formal action or formal
4 consideration for expansion of the list.

5 MR. FERRARA:

6 I agree with that expansion.

7 CHAIR RUBIN:

8 That would require an amendment to the
9 motion, if I am correct. Jeffrey
10 Johnson, are you willing to accept an
11 amendment to accept what is here but
12 also expand on the item that
13 Commissioner McGettigan suggested?

14 MR. JOHNSON:

15 Yes.

16 CHAIR RUBIN:

17 Ms. Thomson, are you okay to the second
18 with extension of the amendment?

19 MS. THOMSON:

20 Yes.

21 CHAIR RUBIN:

22 The motion is to accept this list with
23 further explanation and to modifying it
24 with DUI, and that is what we are voting
25 on. Does that work, Commissioner

1 Kalonji Johnson?

2 COMMISSIONER KALONJI JOHNSON:

3 I believe Mr. Michalowski was going to
4 also interject. I defer to our Office
5 of Chief Counsel.

6 MR. MICHALOWSKI:

7 I strongly suggest not including DUI on
8 the list. We had cases in the past
9 where we tried to connect DUI to the
10 practice of real estate and have
11 consistently lost. A single DUI will
12 increase your case load for real estate
13 at least double to triple.

14 There are several sections to the
15 act, but the first one are things
16 enumerated on the list, which are
17 directly related. We have had case law
18 in the past that said DUI, unless it
19 occurs in the practice, is not directly
20 related to the practice.

21 None of the other business boards
22 have adopted that. Right now, the power
23 to put people in the professional
24 monitoring program is only available
25 through disciplinary cases. They cannot

1 do it voluntarily as the health boards
2 can.

3 Juan and I went through the entire
4 crime's code. This act, by not being on
5 the list, does not mean it cannot be
6 reviewed. As Commissioner McGettigan
7 said, he is talking about people who
8 have had two or three DUIs. This will
9 be reviewed by counsel on the
10 application side. They are already
11 reviewed by us on the prosecution side.

12 A lot of these cases, we will start
13 prosecuting them and then they will be
14 kicked down in Accelerated
15 Rehabilitative Disposition (ARD). Your
16 board also does not have the ability to
17 prosecute for ARD.

18 We can bring cases that are not on
19 that list. We just have to prove they
20 represent a danger. I think on the
21 application side, you could probably set
22 an informal policy if staff is doing any
23 of these reviews that anything more than
24 one DUI or one simple possession, if
25 those are not being sent to Juan to

1 review, be sent to him to review.

2 One of the things may be to reach
3 out to PAR about is, could we come up
4 with some sort of regimented treatment
5 program that we offer to all of our
6 healthcare boards?

7 MR. MCGETTIGAN:

8 I withdraw my concerns.

9 CHAIR RUBIN:

10 Jeffrey Johnson, could we go back to
11 your original motion without the
12 amendment?

13 MR. JOHNSON:

14 Yes.

15 CHAIR RUBIN:

16 Commissioner Thomson, are you okay to
17 second without the amendment?

18 MS. THOMSON:

19 Yes.

20 CHAIR RUBIN:

21 Is there any other discussion? We are
22 calling a vote to approve this list as
23 presented. All in favor? Any opposed?

24 [The motion carried unanimously.]

25 ***

1 [Commissioner Kalonji Johnson thanked the Commission
2 members for their work. He assured that none of their
3 dedicated, hard work would be changed by Act 53. He
4 noted Act 53 to be a benefit for the licensee
5 population and members of the public interested in
6 entering the profession as far as education and
7 information.

8 Commissioner Kalonji Johnson thanked the Office
9 of Chief Counsel, Deputy Chief Montgomery, Commission
10 Counsel, and the prosecutorial division for all of
11 their hard work. He also thanked Ms. Linsenbach for
12 helping to curate the list. He mentioned having the
13 Act on track to be published before the 180-day
14 deadline of December 27, 2020.]

15 ***

16 [Anne M. Rubin, Chair, Industry Member, noted the
17 email sent by Ms. Linsenbach regarding next year's
18 committees for the Commission's review.]

19 ***

20 Adjournment

21 MR. JOHNSON:

22 I make a motion to adjourn.

23 CHAIR RUBIN:

24 Do we have a second?

25 COMMISSIONER KALONJI JOHNSON:

1 I second.

2 CHAIR RUBIN:

3 I make a motion to approve the meeting
4 dates and adjourn the meeting.

5 MR. MCGETTIGAN:

6 So moved.

7 MR. JOHNSON:

8 Second.

9 CHAIR RUBIN:

10 All in favor?

11 [The motion carried unanimously.]

12 ***

13 [There being no further business, the State Real
14 Estate Commission Meeting adjourned at 11:56 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Real Estate Commission meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Real Estate Commission meeting.



Derek Richmond,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE REAL ESTATE COMMISSION
REFERENCE INDEX

November 17, 2020

TIME

AGENDA

9:00	Executive Session
10:30	Return to Open Session
10:35	Official Call to Order
10:36	Introduction of Commission Members and Audience
10:36	Approval of Minutes
10:37	Report of Prosecutorial Division
10:55	Report of Commission Counsel
10:57	Report of Commission Chair
11:09	Report of Commission Administrator
11:11	Report of Committees
11:13	Old/New Business
11:23	Miscellaneous - Act 53 List of Offenses
11:56	Adjournment