

**NEW YORK STATE REAL ESTATE BOARD**  
**MEETING SUMMARY**

**July 21, 2020**

The meeting was held by the Department of State, Division of Licensing Services, via WebEx conferencing. A virtual meeting was held to comply with COVID-19 social distancing directives. Due to the fact the meeting of the NYS Real Estate Board was held remotely, the public hearing section was held in abeyance.

**I. CALL TO ORDER, INTRODUCTIONS and OFFICIAL ATTENDANCE**

The meeting was called to order at 1:06 p.m. W. Clark performed roll call and D. Mossberg announced there was a quorum. The official attendance was as follows:

**BOARD MEMBERS**

Dale Burnett  
Edwin Clark  
David Dworkin  
Sandra Erickson  
Neil Garfinkel  
Duncan MacKenzie  
Trisha Ocon  
Diane Ramirez  
Raquel Vazquez

**Excused:**

Dherminder Bhasin  
Gregory Weston

**DEPARTMENT OF STATE STAFF**

Whitney Clark  
Jodi DeLollo  
David Mossberg  
Ernita Gantt  
Ernest Delaney  
Jack Bilello  
MaryJo Moore  
Denise Tidings  
Marcy Rose  
Alison Lacy  
Emily Lupe  
Mercedes Padilla

**VISITORS**

The meeting was attended by a few online public members.

- A. Approval of 4-27-20 Meeting Summary - W. Clark asked for a motion to approve the 4-27-20 meeting summary. D. MacKenzie made a motion to approve the 4-27-20 meeting summary. D. Ramirez seconded the motion. All members were in favor. W. Clark announced that the meeting summary was approved.

**II. ACTION ITEMS**

- A. Enforcement Report – E. Delaney provided an enforcement update. He reported on the period covering January through July 2020. He stated that during this period, Enforcement opened 238 real estate complaints and closed about 216 cases. The 216 closed cases were addressed as follows: 10 were abandoned, 24 were deemed civil matters to be addressed in civil courts, 15 withdrew, 7 were held to address the issue with

Licensing's legal department, 20 were resolved, 10 received reprimands, 35 were deemed as not under the Department's jurisdiction, 37 were deemed not to be in violation, and 58 were sent to hearing with a recommendation to take action against the licensee.

**B. Processing Report** – E. Lupe stated that the license statistical information from June 2019 and June 2020 was provided to board members. She explained that the total number of licensees are listed by county and that the 2020 figures only include active licensees as EO 202.11 allows individuals to extend their license term during the current State of Emergency.

**C. Education/Examination Report**- M. Rose provided the examination pass rates for 2019 examinations, reporting that 51 percent passed the real estate salespersons exam and 64 percent passed the broker exam. She mentioned that this was consistent with the 2018 examination passing rates which were 52 percent for the salespersons exam and 65 percent for the broker exam.

M. Rose reported on the 2019 qualifying audit for the 75-hour salesperson course. She stated that out of the 2831 audits that were conducted, 2751 licensees have complied (97%), 29 surrendered their license (approx. 1%), 48 were sent to hearing (approx. 2%), and that the Department was still in the process of communicating with the additional three licensees.

M. Rose also provided an update to the request made at the 4-27-20 board meeting regarding live distance education. She reported that the Department will continue to allow educational providers to offer courses in a Live Distance Education delivery method for real estate qualifying and continuing education courses. She explained that educational providers who wish to offer Live Distance Education for a new course will need to submit an original application and that educational providers who wish to offer Live Distance Education for a course already approved for a traditional classroom setting, will need to submit a new application indicating a change in the procedures for taking attendance along with the existing course code number. She mentioned that a description of the educational providers proposed method for live distance education would need to accompany the applications and that there will be no additional fee for educational providers adding a type of delivery method.

T. Ocona inquired about the Arello requirement still being applicable in order to teach distance learning. M. Rose clarified that it is still applicable only for live distance education.

### **III. NEW BUSINESS**

**A. Executive Order Update** – D. Mossberg provided an update on two Executive Orders that were mentioned at the last meeting: 202.11 which extends the expiration date of licenses and 202.47 which permits the electronic notarization for closings and any other

documents that need to be executed. He reported that both these Executive Orders have been extended to August 5, 2020, under EO 202.48. He provided clarification for the new license expiration date stating that under the terms of 202.48, any license that has been in effect will be continued for 30 days after that expiration date so it would continue until September 5, 2020.

- B. Exams Update – M. Moore reported that the Licensing Division suspended all license exams on March 16, 2020, due to COVID-19. This resulted in exam cancellations for 265 real estate broker and 2318 real estate sales exam candidates; they were informed of their exam cancellation via email. She stated that all exams remained suspended until the week of July 7 when exams were restored in Albany; two broker exam dates and 14 salesperson exam dates have been held. M. Moore reported that as of this week, exams have been restored at other sites as follows: Binghamton, Buffalo, Rochester, Syracuse, Utica, Hauppauge, and Franklin Square and that the Division plans to restore exams in the Hudson Valley and the New York City Regions in August. She mentioned that the exam candidates who had a previously cancelled exam were being rescheduled and that these individuals should monitor their accounts for a new test date/time; once all of these individuals are rescheduled, a new online exam schedule will be available to other candidates. She also explained that a variety of COVID-19 safety measures have been implemented for exam sites, including candidates and proctors, and that the proctors are responsible for ensuring that these new requirements are followed; a mandatory COVID-19 checklist is available online for exam candidates.

N. Garfinkel inquired as to whether the Division plans to make electronic testing available in the future. W. Clark reported that the Division is actively looking into technology for holding future online exams.

- C. Enforcement Update – J. Bilello reported on an enforcement initiative that the Licensing Division carried out last year which involved looking at the use of inappropriate titles being used by salespersons and associate brokers, primarily identifying themselves as the president, vice president, officer or principal of a brokerage. J. Bilello stated that the Enforcement Unit has since conducted about 30 investigations and collected approximately \$93,000 in fines. He mentioned that they still have about 128 cases that they are actively pursuing; he clarified that this is a statewide investigation and not subject to just one region and that the Enforcement Unit is actively pursuing these violations. Members sought clarification on the statute and D. Mossberg attempted to clarify the prohibition outlined in Section 441-b of the New York Real Property Law, explaining how the improper use of titles could be misleading from a consumer perspective and that the title that should be used is the license type. W. Clark stated that D. Mossberg would provide further clarification on the section and text for dissemination to board members.
- D. Proposed Regulation – D. Mossberg reported on a proposed regulation for a Cease and Desist Zone in Kings County. He stated that on March 5, 2020, the Department held a

public meeting in Brooklyn, NY, where it was brought to their attention that Real Estate professionals were persistently soliciting property owners of a particular community, commonly known as Community Park 5, to sell their homes. The Department gathered examples of solicitations and on July 1, 2020, published in the State Register a proposed rulemaking to adopt a Cease and Desist zone for Community Park 5 which would permit homeowners to register their homes with the Department so that they could not be solicited; if a licensee were to solicit those that registered, they would be subject to fines, etc. D. Mossberg explained that the comment period is ongoing and that the Department may take action to adopt the regulation once the comment period expires.

#### **IV. ADJOURNMENT**

It was announced that the next meeting of the NYS Real Estate Board is scheduled for Monday, December 14, 2020, at 10:30 a.m.

The Board was prompted by W. Clark to make a motion to adjourn the meeting; S. Erickson made a motion to adjourn the meeting and the motion was seconded by D. Ramirez. The meeting was adjourned at 1:34 p.m.