



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
REAL ESTATE COMMISSION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Janet T. Mills
Governor

Anne L. Head
Commissioner

Public Board Meeting
May 15, 2024
AGENDA

Location: 76 Northern Ave. Gardiner, ME 04330

Room: Kennebec Room

Information regarding virtual attendance to this meeting will be posted on the Board's website at:
<https://www.maine.gov/pfr/professionallicensing/professions/real-estate-commission/home/board-meeting-information>

Time: 9:00 a.m.

Contact: Shara Chesley, (207) 624-8521
Shara.Chesley@maine.gov

- I. **CALL TO ORDER**
- II. **AGENDA MODIFICATIONS AND APPROVAL**
- III. **MINUTES REVIEW AND APPROVAL**
Review and approval of March 21, 2024 minutes
- IV. **DECISION AND ORDER**
2024-REC-19761
- V. **PROPOSED DISMISSALS**
2021-REC-17576
2024-REC-19729
- VI. **PROPOSED CONSENT AGREEMENTS**
2024-REC-19884
2024-REC-19886
2024-REC-19931
2024-REC-19949
2024-REC-19960
2024-REC-19961
2024-REC-19966
2024-REC-19968
2024-REC-19969
2024-REC-19996

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VII. DIRECTOR'S REPORT

- LD2035- An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate

VIII. PUBLIC COMMENT

Under this item, the Commission will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Commission. While the Commission members cannot take action on any issues presented, the Commission will listen to comments and may ask staff to place the issue on a subsequent agenda. At the discretion of the Chair, a time limit on comments may be set.

IX. MEETING SCHEDULE

Next meeting scheduled for June 20, 2024.

X. ADJOURNMENT

**Minutes of the Maine Real Estate Commission Meeting
March 21, 2024**

<u>MEMBERS PRESENT</u>	<u>STAFF PRESENT</u>
Edie Fontaine, Chair	Catherine Pendergast, Director
Leanne Nichols, Vice Chair	Jeffrey Hill, Deputy Director
Jane B. Towle	Lisa Wilson, AAG
Forrest C. Peterson	Regina Ritchie, Professional Licensing Supervisor
Charles Brawn	Shara Chesley, Office Specialist I
	Kaleigh Kennedy, Office Specialist I
<u>MEMBERS ABSENT</u>	

Location: 76 Northern Ave Gardiner, ME

Start: 9:00 a.m.

Adjourn: 10:22 a.m.

I. CALL TO ORDER

The meeting was opened by Chair Fontaine at 9:00 a.m.

II. AGENDA MODIFICATIONS

None

III. MINUTES REVIEW AND APPROVAL

A motion was made by Nichols and seconded by Peterson to approve the minutes of the January 18, 2024, meeting. Unanimous.

IV. PROPOSED DISMISSALS

Nichols recused and stepped out of the room.

A motion was made by Towle and seconded by Brawn to approve the dismissal in case number 2021-REC-17400. Fontaine, Towle, Peterson and Brawn voted in the affirmative. Motion carried.

Nichols returned to the meeting.

Fontaine recused and stepped out of the room.

A motion was made by Brawn and seconded by Peterson to approve the dismissal in case number 2022-REC-18726. Nichols, Towle, Peterson and Brawn voted in the affirmative. Motion carried.

Fontaine returned to the meeting.

A motion was made by Towle and seconded by Nichols to approve the dismissal of case numbers 2021-REC-17441; 2021-REC-17493 and 2021-REC-17497. Unanimous.

V. CONSENT AGREEMENTS

A motion was made by Towle and seconded by Nichols to accept Consent Agreement 2024-REC-19842. Unanimous.

VI. DIRECTOR'S REPORT

The Director provided additional information regarding Qualifying Education Statistics. No further action was taken.

The Director provided a copy of Public Law 290-An Act to Protect Homeowners from Unfair Agreements to Exclusively List Residential Real Estate for Sale. No action was taken.

The Director presented an update on LD2035- An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate. No action was taken.

The Director presented an update on LD2040- An Act to Implement Protection against Deed Fraud. No action was taken.

VII. ADJUDICATORY HEARING

2024-REC-19761 Director V. Shell Brodnax

AAG Wilson – opened the hearing at 9:28 a.m. Shell Brodnax failed to appear. The Director was present. Deputy Director Jeff Hill presented the Director’s Case.

Public deliberations were conducted at the close of the hearing.

A motion was made by Nichols and seconded by Peterson to uphold the denial. Unanimous.

Hearing ended at 10:21 a.m. Recording was stopped.

VIII. PUBLIC COMMENT

None

IX. MEETING SCHEDULE

The next meeting is currently scheduled for Thursday, April 18,2024.

X. ADJOURNMENT

A motion was made by Nichols and seconded by Peterson to adjourn the meeting at 10:22 a.m. Unanimous.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
S.P. 863 - L.D. 2035

An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 33 MRSA §173, sub-§5, as amended by PL 2017, c. 181, §2, is further amended to read:

5. Known defects. Any known defects; ~~and~~

Sec. 2. 33 MRSA §173, sub-§6, ¶B, as enacted by PL 2017, c. 181, §3, is amended to read:

B. Any means other than a public way, in which case the seller shall disclose information about who is responsible for maintenance of the means of access, including any responsible road association, if known by the seller; and

Sec. 3. 33 MRSA §173, sub-§7 is enacted to read:

7. Flood hazard. Information regarding potential flood risks, including:

A. Whether, at the time the seller provides the information to the purchaser, the property is located wholly or partly within an area of special flood hazard mapped on the effective flood insurance rate map issued by the Federal Emergency Management Agency on or after March 4, 2002; the federally designated flood zone for the property indicated on that flood insurance rate map; and a copy of the relevant panel of that flood insurance rate map. For the purposes of this paragraph, "area of special flood hazard" has the same meaning as in Title 38, section 436-A, subsection 1-C;

B. Whether, during the time that the prospective seller has owned the property:

(1) Any flood events affected the property or a structure on the property;

(2) Any flood-related damage to a structure occurred on the property;

(3) Any flood insurance claims were filed for a structure on the property and, if so, the date of each claim; and

(4) Any past disaster-related aid was provided related to the property or a structure on the property from federal, state or local sources for the purposes of flood recovery and, if so, the date of each payment; and

C. For the purposes of this subsection, "flood" means:

(1) A general and temporary condition of partial or complete inundation of normally dry areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source; or

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as described in subparagraph (1), division (a).

Sec. 4. 33 MRSA §193, sub-§3, ¶B, as enacted by PL 2019, c. 142, §2, is amended to read:

B. Any means other than a public way, in which case the seller shall disclose information about who is responsible for maintenance of the means of access, including any responsible road association, if known by the seller; and

Sec. 5. 33 MRSA §193, sub-§4 is enacted to read:

4. Flood hazard. Information regarding potential flood risks, including:

A. Whether, at the time the seller provides the information to the purchaser, the property is located wholly or partly within an area of special flood hazard mapped on the effective flood insurance rate map issued by the Federal Emergency Management Agency on or after March 4, 2002; the federally designated flood zone for the property indicated on that flood insurance rate map; and a copy of the relevant panel of that flood insurance rate map. For the purposes of this paragraph, "area of special flood hazard" has the same meaning as in Title 38, section 436-A, subsection 1-C;

B. Whether, during the time that the prospective seller has owned the property:

(1) Any flood events affected the property or a structure on the property;

(2) Any flood-related damage to a structure occurred on the property;

(3) Any flood insurance claims were filed for a structure on the property and, if so, the date of each claim; and

(4) Any past disaster-related aid was provided related to the property or a structure on the property from federal, state or local sources for the purposes of flood recovery and, if so, the date of each payment; and

C. For the purposes of this subsection, "flood" means:

(1) A general and temporary condition of partial or complete inundation of normally dry areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source; or

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as described in subparagraph (1), division (a).

Sec. 6. 33 MRSA §194 is enacted to read:

§194. Delivery and time of disclosure; cancellation of contract

1. Definition. As used in this section, "flood risk disclosure statement" means a statement containing, at minimum, the information required by section 193, subsection 4.

2. Delivery and time of disclosure. The seller of nonresidential real property under this subchapter shall deliver or cause to be delivered a flood risk disclosure statement to the purchaser no later than the time the purchaser makes an offer to purchase, exchange or option the property or exercises an option to purchase the property pursuant to a lease with an option to purchase.

3. Terminate contract. If the seller does not deliver or cause to be delivered a flood risk disclosure statement to the purchaser before the purchaser makes an offer or exercises an option in accordance with subsection 2, the purchaser may terminate any resulting real estate contract or withdraw the offer within 72 hours after receipt of the flood risk disclosure statement.

4. Withdrawal without penalty. If the purchaser terminates a real estate contract or withdraws an offer pursuant to this section, the termination or withdrawal is without penalty to the purchaser and the seller shall promptly return to the purchaser any deposits made by the purchaser.

5. Rights waived. Any rights of the purchaser to terminate a real estate contract provided by this section are waived conclusively if not exercised prior to settlement or occupancy, whichever is earlier, by the purchaser in the case of a sale or exchange, or prior to settlement in the case of a purchase pursuant to a lease with an option to purchase. Any rights of the purchaser to terminate a real estate contract for reasons other than those set forth in this section are not affected by this section.

6. Invalidated. A transfer subject to this subchapter is not invalidated solely because of the failure of any person to comply with this subchapter.