

MINUTES OF THE MEETING
Kansas Real Estate Commission
August 24, 2020

The Kansas Real Estate Commission held its regular meeting on Monday, August 24, 2020, at 9:00 a.m. by telephone conference call

Commissioners Present:

Errol Wuertz, Chairperson
Bryon Schlosser, Vice-Chairperson
Joe Vaught, Member
Sue Wenger, Member
Connie O'Brien, Member

Staff Present:

Erik Wisner, Executive Director
Kelly White, Deputy Director, Director of Licensing and Education
Wendy Alkire, Director of Compliance
Amber Nutt, Real Estate Education Specialist
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel:

Athena Andaya, Assistant Attorney General
Jane Weiler, Assistant Attorney General

Members of the Public:

Kathy McCarty
Mark Tomb
Kimberly Goudy

Call to Order

Mr. Wuertz called the meeting to order at 9:00 a.m. and called the roll to signify presence at the open meeting via conference call.

Approval of the Minutes of the July 20, 2020 Meeting

Mr. Schlosser moved the minutes of the July 20, 2020 meeting be approved. Mr. Vaught seconded the motion. Motion carried unanimously.

Compliance Report

The Commission reviewed the status of open legal cases. The oldest complaint pending review (not on hold) is from January 15, 2020. The oldest disciplinary file pending staff review is from January 3, 2019. The oldest disciplinary file pending review by the attorney general's staff is from March 4, 2019.

Staff completed nine compliance reviews in FY2021. The current turnaround time for compliance review results is 13 months. Zero transactions were reported by 23% of brokers in the last four fiscal years. No repeat violations were found during three follow up reviews in FY2021. Eight percent of complaints in the last four fiscal years were reported anonymously.

Compliance courses are scheduled for October 1 and 13, 2020 and January 21 and 28, 2021.

Licensee, Education and Exam Report

As of July 31, 2020, there are 17,478 licensees and 314 pending applications (92 salesperson, 17 broker and 208 fingerprint-only files).

Staff approved one principles of real estate course, one Kansas practice course, four elective and two mandatory continuing education courses from July 1 to July 31, 2020.

In FY2021, Pearson Vue administered 317 exams with an overall pass rate of 68%. Two brokers and 34 salespersons tested based on requirements met in another state. Brokers had a 50% pass rate, and salespersons had an 88% pass rate.

The Commission reviewed proposed updates from schools to the outlines for the principles of real estate and the Kansas practice courses. The Commission directed staff to solicit feedback from licensees.

Director's Report

The Commission reviewed the proposed FY2021-FY2023 budget. Overall expenditures outside of salary and wage increases are estimated to remain unchanged from FY2019 and FY2020 (pre-pandemic) levels for FY2021-FY2023. Overall revenue is expected to decline in FY2022 and FY2023 due to a decrease in license applications. Overall fee fund carryover is expected to decline by about \$76,000 but carryover should still be above 75% of operating expenses.

Mr. Schlosser moved to approve the realigned FY2021 and proposed FY2022 and FY2023 Commission budgets and to give Mr. Wisner authority to make any technical or other changes requested by the Division of Budget and the Governor's office during their review. Mr. Vaught seconded the motion. Motion carried unanimously.

The Commission reviewed proposed changes to K.A.R 86-3-22 transaction identification, K.A.R. 86-3-10 retention of records, K.A.R. 86-3-18 trust account records, and K.A.R. 86-3-21 trust account documentation. The proposed changes would eliminate the requirement for transactions to be numbered chronologically, remove redundant language, and clarify which records must be maintained in the broker's business files.

Mr. Schlosser moved to give Mr. Wisner authority to work with general counsel to commence the promulgation of the changes proposed to the regulations. Mr. Vaught seconded the motion. Motion carried unanimously.

Unlicensed Activity Discussion

Mr. Wisner compared the statutes pertaining to the definition of a broker (K.S.A. 58-3035), activities requiring a license (K.S.A. 58-3036), licensure exemptions (K.S.A. 58-3037), and penalties for violations (K.S.A. 58-3065) to the cease and desist language for unlicensed persons in the statutes for the Kansas Board of Veterinary

Examiners (K.S.A. 47-834) and the Kansas Board of Cosmetology (K.S.A. 65-1908). Ms. Andaya will draft statutory language to give the Commission the authority to discipline unlicensed persons conducting activities requiring a Kansas real estate license and subpoena power.

Overview of Felony Bar Provisions in K.S.A. 58-3043

Ms. Andaya gave an overview of K.S.A. 58-3043 and indicated the authority to renew or grant an original license in subsection (f) only applies after the five or 15-year bar in subsection (e) has elapsed. The Commission does not have authority to waive the bar periods.

Public Comments

No public comments were made.

Mr. Schlosser moved to adjourn the meeting. Mr. Vaught seconded the motion. Motion carried unanimously.

Mr. Wuertz adjourned the meeting at 10:57 a.m.