

MINUTES OF THE MEETING
Kansas Real Estate Commission
June 17, 2019

The Kansas Real Estate Commission held its regular meeting on Monday, June 17, 2019, at 9:00 a.m. at Jayhawk Tower, 700 S.W. Jackson Street, Suite 404, Topeka, Kansas 66603.

Commissioners Present:

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

Staff Present:

Erik Wisner, Executive Director
Kelly White, Deputy Director, Director of Licensing and Education
Stacey Serra, Legal Assistant
Amber Nutt, Education Specialist
Alycia Smith, Licensing Specialist

Kansas Real Estate Commission Legal Counsel:

Jane Weiler, Assistant Attorney General
Charles Macheers, Assistant Attorney General

Members of the Public:

Mark Barker
Kathy McCarty
Patrick Vogelsberg

Call to Order

Mr. Schlosser called the meeting to order at 9:02 a.m.

Approval of the Minutes of the April 15, 2019 Meeting

Mr. Vaught made the motion, seconded by Mr. Wuertz, to approve the minutes from the April 15, 2019 meeting. Motion carried unanimously.

Revision to Agenda Item

Mr. Wisner stated the description of the Executive Session should be revised from discussion of attorney exemption to internal procedures and statutory compliance.

Roll Call Vote on K.A.R. 86-1-11 Temporary Regulation

Effective July 1, 2019, Senate Bill 60 increases the “Broker Pre-License Course” from 24 hours to at least 30 hours and renames the course to the “Kansas Real Estate Fundamentals Course.” SB 60 also establishes a new broker pre-license course titled the “Kansas Real Estate Management Course” and prescribes a course outline. The bill repeals the salesperson’s post-license course and includes other technical changes. The Commission reviewed the language to temporarily amend K.A.R. 86-1-11 to match the statutory language in SB 60.

The roll call vote to approve was unanimous. The temporary regulation will be effective July 1, 2019 if it is approved by the State Rules and Regulations Board at their meeting on June 26, 2019. A permanent regulation will be submitted for review by August 2019.

Hearing of Brice Bowers, Docket No. 19-7454

Hearing of Jessica Zahn Gibson, Docket No. 19-7657

Mr. Wisner informed the Commission Ms. Zahn Gibson, a Texas resident, requested to appear for the hearing by phone. Ms. Wenger made the motion, seconded by Mr. Wuertz, to approve Ms. Zahn Gibson’s request to appear by phone. Motion carried unanimously.

Mr. Schlosser recessed the KOMA meeting at 9:52 a.m.

Mr. Schlosser reconvened the KOMA meeting at 10:00 a.m.

Online Licensing Portal Demonstration

Alycia Smith demonstrated upcoming changes to the Commission website to allow licensees to transfer, add or remove a company affiliation, change to active or inactive status, or change the supervising or branch broker of a company. The changes will go live after testing is complete. The Commission recommended staff provide the demonstration at the Kansas Association of Realtors’ annual conference in Wichita, October 7-9, 2019.

Hearing of Tobein Newson, Docket No. 19-7562

Hearing of Ben Walls, Docket No. 19-7660

Motion for Executive Session

Mr. Vaught moved, and Ms. Wenger seconded, that the Commission recess into executive session pursuant to K.S.A. 2018 Supp. 75-4319(b)(2) for consultation with counsel, Charles Macheers, Assistant Attorney General, and Jane Weiler, Assistant Attorney General to seek legal advice on a matter protected by the attorney-client privilege related to internal procedures and statutory compliance until 11:50 a.m. Motion Carried unanimously.

Mr. Schlosser recessed the KOMA meeting for an executive session at 11:26 a.m.

Mr. Schlosser reconvened the KOMA meeting at 11:50 a.m.

Mr. Schlosser recessed the KOMA meeting at 11:54 a.m.

Mr. Schlosser reconvened the KOMA meeting at 12:25 p.m.

Senate Bill 60 After Action

The Commission reviewed the status of updates to the exam, website, and forms to prepare for SB 60 changes and revisions to simplify and reformat the broker license application. By consensus, the Commission agreed to the proposed changes.

The Commission reviewed proposed updates to the application approval guidelines including a modified point system to evaluate transaction experience for broker applicants. The Commission discussed omitting a differentiation for tax issue suspensions, omitting a proposed exemption for attorneys in relation to the experience for a broker license, and to give more points for commercial or agricultural land real estate transactions over \$1,000,000. Mr. Wuertz made the motion, seconded by Mr. Vaught, to approve the revised guidelines with the changes discussed. Motion carried unanimously.

The Commission reviewed proposed regulatory changes required to implement SB 60 statutory changes. Ms. Wenger made the motion, seconded by Mr. Wuertz, to approve proposed amendments to K.A.R. 86-1-10, 86-1-11, 86-1-12, and 86-1-17, and to repeal K.A.R. 86-1-13, 86-1-16, 86-1-18, 86-3-6a, and 86-3-20. The motion included a provision to delay the effective date of K.A.R. 86-1-10 and 86-1-11 until July 1, 2020. Motion carried unanimously.

Mr. Schlosser recessed the KOMA meeting at 1:51 p.m.

Mr. Schlosser reconvened the KOMA meeting at 2:00 p.m.

Advertising Regulations

The Commission reviewed proposed changes to K.A.R. 86-3-7 at their April 15, 2019 meeting but delayed approval until other proposed regulation changes related to SB 60 were ready for review and to provide time for further comment by industry members. Ms. O'Brien made the motion, seconded by Mr. Wuertz, to approve the proposed amendments to K.A.R. 86-3-7 with the addition of language to subsection (b)(3) to exclude internet, website, social media, and social networking advertisements and with a provision to delay the effective date until July 1, 2020. Motion carried unanimously.

Ms. Wenger made the motion, seconded by Ms. O'Brien, to give Mr. Wisner authority to make any changes requested by the Department of Administration or the Attorney General's office or the Secretary of State during their review of K.A.R. 86-1-10, 86-1-11, 86-1-12, 86-1-13, 86-1-16, 86-1-17, 86-1-18, 86-3-6a, 86-3-7 and 86-3-20.

Licensee, Education and Exam Report

Ms. White reviewed the new Applicant Status Report as of June 3, 2019. The Commission has 284 pending applications (73 salesperson, 14 broker and 197 fingerprint-only files).

As of June 4, 2019, there are 16,823 licensees, an increase of 510 over last year, and 624 expired-renewable licensees.

Staff approved three mandatory continuing education courses and 13 elective continuing education courses between April 1, 2019 and May 31, 2019.

In FY2019, Pearson administered 2,856 exams with an overall pass rate of 64%. 27 brokers and 483 salespersons tested based on requirements met in another state. Brokers had a 63% pass rate, and salespersons had a 90% pass rate.

Director's Report

Real estate fee fund receipts are \$1,082,832. This is 1% above estimates. Real estate fee fund expenditures for FY2019 are \$993,846. This is 1% or \$8,291 higher than estimated.

The real estate fee fund balance currently stands at \$846,232 up \$33,544 from July 1, 2018. Background investigation fee fund receipts for FY2019 are \$111,236 which is 3% lower than estimated. Real estate recovery fund receipts for FY2019 are \$78,328 and the balance in the fund is at \$286,661.

The Legislature increased expenditure authority of \$33,000 annually to absorb credit card convenience fees.


The legislature approved the Governor's recommendation for a 2.5% pay increase for all state employees in FY2020. Health insurance rates are not expected to increase.


Kevin Tubbesing submitted a written update related to the Commercial Real Estate Task Force. The Kansas City Regional Association of Realtors (KCRAR) appointed two committees, one residential focused and one commercial focused, to draft a proposed statute. Mr. Tubbesing anticipates final action by KCRAR in July or August.

Adjournment


Mr. Schlosser adjourned the meeting at 3:00 p.m.

Attest: August 19, 2019


Bryon Schlosser, Chairperson


Joe Vaught, Vice-Chairperson


Errol Wuertz


Sue Wenger


Connie O'Brien