

MINUTES OF MEETING

Kansas Real Estate Commission

March 14, 2013

The Kansas Real Estate Commission held its regular meeting on Thursday, March 14, 2013 at 9:00 a.m. at Three Townsite Plaza, Suite 200, 120 S.E. 6th Avenue, Topeka, Kansas.

Commissioners Present:

Kathy Copeland, Chair
Tim Holt, Vice Chair
Marilyn Bittenbender, Member
Errol Wuertz, Member
Shirley Cook, Member

Staff Present:

Sherry Diel, Executive Director
Kelly White, Director of Licensing & Education
David Pierce, Director of Enforcement
Alexandra Blasi, Attorney
Laurel McGinnis, Legal Assistant

Kansas Real Estate Commission Legal Counsel Present:

Sarah Fertig, Assistant Attorney General

Members of the Public Present:

Steven Hooks
Andreal Hoosman
Paul Temme
Lisa Woodman
Teresa Crosby
Larry West

Call to Order

Ms. Copeland called the meeting to order at 9:08 a.m.

Deletion from Agenda

The conference hearing *In the Matter of Melissa Walton* was removed from the Agenda pursuant to Ms. Walton's notice of withdrawal of her request for a hearing.

Approval of Minutes

The approval of the February 14, 2013 meeting minutes was tabled until the April 18, 2013 meeting.

At 9:08 a.m. Ms. Copeland recessed the KOMA meeting in order to address the scheduled KAPA proceedings.

Conference Hearing *In the Matter of Steven Hooks*, Docket No 4342.

A conference hearing *In the Matter of Steven Hooks*, Docket No. 4342 regarding the denial of his application for a salesperson's license pursuant to K.S.A. 58-3043 (a)(4), (a)(5), (b) and K.S.A. 58-3039(a) was held.

Ms. Diel joined the meeting at 9:32 a.m.

Conference Hearing *In the Matter of Daniele Yoder Wilson*, Docket No 4268.

A conference hearing *In the Matter of Daniele Yoder Wilson*, Docket No. 4268 regarding the denial of her application for renewal of her real estate salesperson's license pursuant to K.S.A. 58-3043 (a)(1), (a)(2)(B), (a)(4), (a)(5), (b) and (d) and K.S.A. 58-3050(a)(4) and (a)(6) was held.

Ms. Copeland concluded the hearings at 10:05 a.m.

Reconvene KOMA Meeting

Ms. Copeland reconvened the KOMA Meeting at 10:35 a.m.

After review and discussion *In the Matter of Steven Hooks*, Docket No. 4342, motion was made Mr. Holt, seconded by Mr. Wuertz to approve Mr. Hook's application for a salesperson's license conditioned upon Applicant seeking employment/association with a Kansas supervising broker located in the Kansas City area that provides an organized training and mentoring program for salespersons. Applicant's choice of supervising broker and the supervising broker's training/mentoring program must be approved by the Commission. Applicant's proposed supervising broker must read all orders of the Commission regarding this matter, and the Consent and Settlement Agreement between Applicant and the Office of the State Bank Commissioner, and state they are willing to supervise Applicant under the circumstances; Applicant's continued affiliation of his Missouri salesperson's license with Andrea Hoosman in St. Louis, is not affected by the Kansas order; and Applicant shall have 60 days from the date listed in the Certificate of Service of the Final Order to comply with the above conditions or Applicant's application for licensure shall be denied. Motion carried unanimously.

After review and discussion *In the Matter of Daniele Yoder Wilson*, Docket No. 4268, motion was made Mr. Wuertz, seconded by Ms. Bittenbender to uphold the January 16, 2013 Summary Proceedings Order denying Ms. Wilson's application for renewal of her real estate salesperson's license. Motion carried unanimously. Mr. Holt recused himself.

At 10:39 a.m. Ms. Copeland declared a 10 minute break. Ms. Copeland reconvened the meeting at 10:45 a.m.

Applications for Salesperson's License

Paul Temme

Applicant answered "Yes" to Question No. 5 on his application and self-reported a criminal offense. After review and discussion regarding the nature and severity of the offense, the passage of time and Applicant's lack of additional criminal offenses, motion was made by Mr. Holt, seconded by Ms. Bittenbender to approve Applicant's application for a salesperson's license. Motion carried unanimously.

Lisa Woodman

Applicant answered "Yes" to Question No. 6 on her application and self-reported a diversion for criminal offenses. After review and discussion regarding the circumstances surrounding the conduct, the nature and severity of the conduct, the passage of time and Applicant's lack of additional criminal conduct, motion was made by Mr. Holt, seconded by Mr. Wuertz to approve Applicant's application for a salesperson's license. Motion carried unanimously.

Applications for Renewal

Teresa Crosby

Applicant answered "Yes" to Question No. 1 on her application for renewal and partially self-reported discipline taken against her appraiser's license. Applicant also failed to report both discipline cases to the Commission within 10 days and failed to report the 2008 discipline case on three renewals. Ms. Crosby was present and responded to questions from the Commissioners. The Commissioners counseled Ms. Crosby on her duty to timely report discipline taken against a professional license or certification. After review and discussion regarding the nature of the discipline and Applicant's failure to report, motion was made by Ms. Bittenbender, seconded by Mr. Holt to approve Applicant's application for renewal of her salesperson's license. Motion carried unanimously.

Richard Watkins

Applicant answered "Yes" to Questions Nos. 2 and 3 on his application for renewal of his broker's license and self-reported a prior conviction and pending criminal offenses. After review and discussion regarding the circumstances surrounding the offenses, the nature and severity of the offenses, Applicant currently serving probation and Applicant's pending appeal, motion was made by Mr. Holt, seconded by Ms. Bittenbender to approve Applicant's application for renewal of his broker's license subject to the conditions that he submit to fingerprinting and provide the Commission with quarterly status reports. The Commission also reserved the right to take further action against Applicant's broker's license after the District Court reaches a decision regarding the appeal. Motion carried unanimously.

Lawrence West

The renewal application of Mr. West and the request to lift the suspension on his license, tabled from the January 15, 2013 and February 14, 2013 meetings, was presented for review by the Commission. After review and discussion regarding Applicant's self-disclosure to the Commission regarding criminal offenses, his compliance with the Commission's disciplinary order and his demonstration of ongoing rehabilitation, motion was made by Mr. Wuertz, seconded by Ms. Bittenbender to approve Mr. West's application for renewal of his broker's license and to lift the suspension on his license. Motion carried. Mr. Holt recused himself.

Consider request of Karen Samuelson for review of deficient application

After review and discussion regarding the Commission's November 17, 2010 policy regarding application deadlines, motion was made by Mr. Holt, seconded by Mr. Wuertz to deny Ms. Samuelson's request to accept an application that was not filed timely. Motion carried unanimously.

Consider request of Wanda Stewart to open a company named Wanda Stewart Real Estate, LLC.

After review and discussion, motion was made by Mr. Holt, seconded by Ms. Bittenbender to approve Ms. Stewart's request. Motion carried unanimously.

Consider request of Frank J. Ross, III to change his supervising broker

After review and discussion, motion was made by Mr. Holt, seconded by Mr. Wuertz to approve Mr. Ross' request to modify the restriction on Mr. Ross' license and grant his request. Motion carried unanimously.

Staff Report on I-Team Statistics

Ms. Blasi presented the I-Team Statistics to the Commissioners. Mr. Holt commented that he liked the report on open complaints.

Staff report on audit practices by jurisdiction

Ms. Diel presented the Commissioners with information regarding audit practices by jurisdiction and she discussed potential changes to the audit program should the Commission not receive a fee increase.

Staff request regarding Commission policies and procedures

Ms. Diel presented the Commissioners with an amendment to Guidance Document No. 13-02 Renewal Applications. After review and discussion, motion was made by Mr. Holt, seconded by Ms. Bittenbender to approve amended Guidance Document No. 13-02. Motion carried unanimously.

Ms. Diel presented the Commissioners with Guidance Document No. 13-03 Complaints and a proposed Complaint Form for use by the public and licensees. After review and discussion, motion was made by Ms. Bittenbender, seconded by Mr. Holt to approve Guidance Document No. 13-03 as amended and to approve the Complaint Form. Motion carried unanimously.

Ms. Diel presented the Commissioners with Guidance Document No. 13-04 Disciplinary Actions. After review and discussion, motion was made by Ms. Bittenbender, seconded by Mr. Wuertz to approve Guidance Document No. 13-04, with clarification that the Executive Director's authority is granted by the Commission. Motion carried unanimously.

Executive Session to Discuss an Attorney-Client Privileged Matter

At 1:08 p.m. Ms. Copeland declared an executive session for 10 minutes to discuss an attorney-client privileged matter. Ms. Fertig, Ms. Diel and the Commissioners were present for the executive session.

At 1:20 p.m. Ms. Copeland reconvened the meeting. The Commission directed Ms. Diel to set *In the Matter of Jothan Schiller* for hearing.

Consider Commission's 2013 Legislative Agenda

Ms. Diel presented the Commissioners with the Senate testimony she gave today regarding HB 2122-KREC Technical Amendment and HB 2125-KREC Fee Increase along with the Commission's Legislative Watch.

Ms. Diel informed the Commissioners that it appeared the HB 2077-Military Licensing would pass and issues still remain regarding definitions used in the bill, including “general discharge” and “complete applications.”

Ms. Diel reported that there had been no movement regarding SB-115 – Radon Testing and SB 116-Real Estate Referral Fees.

Education Report

The Education Report was received by the Commissioners.

Budget Report

Ms. Diel presented the Commissioner’s with the House budget and her testimony.

The Budget Report was presented including Expenditures and Real Estate Receipts as of February 2013.

KREC’s fee fund balance is \$377,252. The available cash balance is \$329,852 which is the Commission’s current fee fund balance less encumbrances. Ms. Diel noted we are 67% through the year and expenditures are at 61%

KREC has transferred 10% of receipts to the State General Fund from July 2012 – February 2013 or \$57,504.05 and kept 90% or \$517,536.45 for the KREC fee fund for the current fiscal year.

KREC collected \$46,416.76 in fines for FY 2013 for the State General Fund. The Revolving Recovery Fund balance is \$305,187.02.

Ms. Diel also reported that the Commission’s electronic storage software will no longer be supported by Oracle and the Commission will have to locate another provider in the future.

Director’s Report

The Commissioners received the Director’s Report and Ms. Diel noted that there are currently 13,484 licensees.

Ms. Diel reported that staff continues to work on implementing efficiencies, including: converting all licensee and company forms to pdf fillable files; updating the website; and frequently asked questions. Ms. Diel anticipates the new forms will launch on March 22nd and all licensees will be notified via email. Those without an email address will be notified by mail.

Ms. Diel also reported that the automated phone system should launch either this week or next week and Commission agendas and minutes will now be made available on the Commission’s web site instead of being provided by email.

Ms. Diel noted that if the fee increase bill is not passed that the Commission may need to consider meeting via Skype; however, until the Cox line is installed this will not be possible due to inadequate bandwidth.

Public Comment

There was no public comment.

The Commissioners set the April 11, 2013 meeting by phone and the May 9, 2013 meeting in Topeka with a luncheon if the new Commission appointments have been made.

Adjournment

Ms. Copeland adjourned the meeting at 2:00 p.m.

ATTEST:

Date: June 13, 2013