

MINUTES OF THE MEETING
Kansas Real Estate Commission
November 20, 2017

The Kansas Real Estate Commission held its regular meeting on Monday, November 20, 2017, 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

Staff Present:

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

Kansas Real Estate Commission Legal Counsel:

Sarah Fertig, Assistant Attorney General
Tom Nanney, Assistant Attorney General
Jane Weiler, Assistant Attorney General

Members of the Public:

Mark Barker
Patrick Vogelsberg
Bill Sneed

Call to Order

Mr. Schlosser called the meeting to order at 9:00 a.m.

Approval of the Minutes of the October 10, 2017 Meeting

Motion was made by Mr. Vaught, seconded by Ms. Wenger, to approve the minutes from the October 10, 2017 meeting. Motion carried unanimously.

Conference Hearing of Virginia Franzese, Docket No. 17-6319

Mr. Schlosser recessed the KOMA meeting at 10:00 a.m.
Mr. Schlosser reconvened the KOMA meeting at 10:05 a.m.

Mr. Schlosser recessed the KOMA meeting at 11:04 a.m.

Mr. Schlosser reconvened the KOMA meeting at 11:13 a.m.

Conference Hearing of Karin Humbolt, Docket No. 17-6317

Mr. Schlosser recessed the KOMA meeting at 12:06 p.m.
Mr. Schlosser reconvened the KOMA meeting at 12:25 p.m.

Proposed Statute Changes

Mr. Wisner has been exploring statutory options to define “rebates”. He has met with representatives from USAA and the Kansas Association of Realtors (KAR) regarding the proposed language for the statute. USAA representatives presented a proposal that would include a portion of the “rebate” definition from the proposed regulation that was tabled along with the requirement the rebate be disclosed. The Commission felt the proposal didn’t include enough clarifying language from the proposed regulation and requested Mr. Wisner continue to negotiate with interested parties.

The Commission reviewed the proposed statutory language for advertising by teams and individuals. KAR has expressed concern regarding “real estate” being a prohibited term, and requested it be struck from the draft. The Commission agreed to the requested change. Staff will present a clean version of the language at the December meeting.

The Commission reviewed the proposed statutory language regarding seller’s property disclosures. KAR is not supportive of the legislation as proposed. Their main concern is it appears the agent would not only be responsible for ensuring the disclosure is complete but would also bear responsibility for its content. Staff will work on a draft to present to KAR to see if it can address their concerns.

Mr. Schlosser recessed the KOMA meeting at 1:14 p.m.
Mr. Schlosser reconvened the KOMA meeting at 1:20 p.m.

Licensee, Education and Exam Report

Ms. White informed the Commission there were 15,693 licensees as of November 2, 2017, this is up 890 since last year.

Staff approved three elective and one mandatory broker core course in October.

In October, there were 280 exams taken with an overall pass rate of 65%. There were 36 broker exams with a pass rate of 78%, and 244 salesperson exams with a pass rate of 64%. Eight brokers and 32 salespersons tested by waiver for equivalent requirements.

In FY2018, there were 1,123 exams administered with an overall pass rate of 63%. 19 brokers and 149 salespersons tested by equivalent requirements, brokers had a 100% pass rate, and salespersons had an 85% pass rate.

Pearson Vue conducted a meeting with several staff and content area experts on November 9, 2017. They reviewed proposed changes to the content outlines and new questions. They also discussed problem questions. A follow up meeting will be set to conclude the review. The content outline changes will go live in February.

Director's Report

FY2018 real estate fee fund receipts are \$416,821. This is 5% above estimates. Real estate fee fund expenditures for FY2018 are \$327,660. This is 2% or \$25,239 less than estimated. Several one-time annual expenditures have not been made including copier rental, monumental building surcharge and maintenance fee to the Board of Healing Arts for the licensing system.

The real estate fee fund balance is currently \$697,968 which is up \$228,860 from July 1, 2017. \$167,000 of the increase is due to the net repayment of fee funds swept from the Commission in 2009. Background investigation fee fund receipts for FY2018 are \$40,117 which is 1% below estimates. Real estate recovery fund receipts for FY2018 are \$4,780.14 and the balance in the fund is at \$267,133.11.

Mr. Wisner provided a regulation update. The public hearing for KAR 86-3-26 through 86-3-28 (Agency forms adopted by reference) is tentatively scheduled for February 19, 2018 unless there is a conflict.

Mr. Wisner provided a review of the status of active legal files. There are currently 365 active files.

Mr. Wisner presented a question regarding an advertisement by one of the schools regarding broker pre-license education. The question is whether the advertisement is misleading since detailed information regarding the experience requirement is not included in the steps to obtain a license. It also makes the inference that broker education and/or experience requirements are increasing, which is not necessarily accurate. Staff will look at adding language to the pending regulation related to education requirements.

The broker experience task force met on November 13, 2017, there was a good open discussion on other states' requirements and what could be adopted for Kansas. Staff will aggregate the feedback received along with some follow up research for consideration at the next meeting in early 2018.

Adjournment

Mr. Schlosser adjourned the meeting at 1:45 p.m.