

STATE OF KANSAS

KANSAS REAL ESTATE COMMISSION
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GOVERNOR JEFF COLYER, M.D.
ERIK WISNER, EXECUTIVE DIRECTOR

MINUTES OF THE MEETING Kansas Real Estate Commission November 19, 2018

The Kansas Real Estate Commission held its regular meeting on Monday, November 19, 2018, at 9:00 a.m. at the 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 – By Telephone
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
Wendy Alkire, Compliance Director

Kansas Real Estate Commission Legal Counsel:

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

Members of the Public:

Mark Barker
Patrick Vogelsberg
Kathy McCarty
Victoria Potts
Bob Cortner
Sara Cortner
Deborah Sprague

Call to Order

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

Approval of the Minutes of the October 15, 2018 Meeting

Motion was made by Mr. Vaught, seconded by Ms. O'Brien, to approve the minutes from the October 15, 2018 meeting. Motion carried unanimously.

Public Hearing

K.A.R. 86-1-3, 86-1-5, 86-1-19, and 86-3-15 are proposed for amendment. K.A.R. 86-1-15 is proposed for revocation. Mr. Wisner summarized the proposed regulations. Mr. Wisner read written comments from the Joint Committee on Administrative Rules and Regulations received by the Commission. Mr. Wisner called for comments from the public. There were no public comments.

Conference Hearing of Vincent Muniz, Docket No. 19-7315

Mr. Schlosser recessed the KOMA meeting at 10:19 a.m.
Mr. Schlosser reconvened the KOMA meeting at 10:27 a.m.

Conference Hearing of Joseph Swartz, Docket No. 19-7261

Roll Call to adopt amendments from Public Hearing

Roll call vote on amendments to K.A.R. 86-1-3

Mr. Vaught, "aye"
Ms. O'Brien, "aye"
Ms. Wenger, "aye"
Mr. Wuertz, "aye"
Mr. Schlosser, "aye"

Roll call vote on amendments to K.A.R. 86-1-5

Mr. Vaught, "aye"
Ms. O'Brien, "aye"
Ms. Wenger, "aye"
Mr. Wuertz, "aye"
Mr. Schlosser, "aye"

Roll call vote on amendments to K.A.R. 86-1-15

Mr. Vaught, "aye"
Ms. O'Brien, "aye"
Ms. Wenger, "aye"
Mr. Wuertz, "aye"
Mr. Schlosser, "aye"

Roll call vote on amendments to K.A.R. 86-1-19

Mr. Vaught, "aye"
Ms. O'Brien, "aye"
Ms. Wenger, "aye"
Mr. Wuertz, "aye"
Mr. Schlosser, "aye"

Roll call vote on amendments to K.A.R. 86-3-15

Mr. Vaught, "aye"
Ms. O'Brien, "aye"
Ms. Wenger, "aye"

Mr. Wuertz, “aye”
Mr. Schlosser, “aye”

Mr. Schlosser recessed the KOMA meeting at 11:30 a.m. for KAPA deliberations
Mr. Schlosser reconvened the KOMA meeting at 12:15 p.m.

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Advertising Requirements

Last December, the Commission approved a statutory change to clarify requirements for advertising by teams and individuals. Mr. Wisner presented several examples of advertising that would be non-compliant if the proposed statutory change went into effect. The Commission also reviewed recommendations from the Kansas Association of Realtors (KAR) task force on advertising. They recommended that the broker’s name on an advertisement be at least 50% of the size of the individual or team name and that any legislation have a delayed effective date of one year after enactment. The Commission had concerns regarding the brokerage name not being located adjacent to the individual or team name in many of the advertising examples. The Commission will review the revised statutory changes incorporating the recommendations from Kansas Association of Realtors and additional language regarding proximity of the broker’s name to that of the individual or team name at the December meeting.

Licensing Requirements – Proposed Legislative Changes

Mr. Wisner reviewed the proposed recommendations for statutory changes to licensing requirements including the broker pre-license education and experience requirements. Staff compiled a list of recommendations from the Broker Experience Task Force, broker pre-license education providers, the Kansas Association of Realtors (KAR) and staff. After discussion, the Commission decided to proceed with the recommendation for two courses totaling at least 60 hours but no more than 90 hours total for in state applicants and a practice course of at least 30 hours and a four-hour law course for out of state or equivalent requirements met applicants. The Commission also proceeded with reducing the timeframe for considering activities requiring a real estate license from five years to three years immediately preceding the date of a broker application. The requirement to have two years of experience during that timeframe would remain. Ms. Nutt presented proposed outlines for “Broker Fundamentals” a 30-hour broker pre-license course and “Brokerage Management” a 30-hour broker practice course. Motion was made by Ms. Wenger, seconded by Mr. Vaught, to proceed with changes to the statutory language.

Licensee, Education and Exam Report

Ms. White reviewed the new Applicant Status Report. As of November 1, 2018, there were 326 pending applications. There were 63 salesperson applications, 15 broker applications, and 248 fingerprint-only files.

There was a total of 16,382 licensees as of November 1, 2018. There were 495 expired but renewable licensees.

Since the last Commission meeting, staff approved three mandatory broker core courses and nine elective courses.

In FY2019, there have been 1,045 exams administered with an overall pass rate of 63%. 19 brokers and 154 salespersons were tested by equivalent requirements, brokers had a 68% pass rate, and salespersons had an 91% pass rate.

Director's Report

FY2019 real estate fee fund receipts are \$448,700. This is 5% above estimates. Real estate fee fund expenditures for FY2019 are \$308,876. This is 4% or \$38,707 lower than estimated. There are still several one-time payments pending.

The real estate fee fund balance is currently \$891,883 which is up \$79,195 from July 1, 2018. Background investigation fee fund receipts for FY2019 are \$43,061 which is 1% higher than estimated. Real estate recovery fund receipts for FY2019 are \$72,175 and the balance in the fund is at \$333,174. This is a significantly higher balance than normal due to a \$67,000 transfer of unobligated earnest money from a large brokerage's trust account.

The Commission submitted a realigned budget estimate for FY 2019 using approved amounts from the totals approved by the 2018 Legislature and proposed budgets for FY 2020 and 2021. The Commission also requested an enhancement to increase the Commission's expenditure authority to cover credit card convenience fees in FY 2019-2021. The Governor has approved the enhancement request and will be included as part of the budget submitted to the legislature to review during the 2019 session.

The Commission discussed comments from a licensee regarding the recent decision to publish in the newsletter disciplinary actions resulting in suspension, revocation or cumulative fines over \$500.00.

Motion by Mr. Wuertz to recess into executive session for 30 minutes to discuss non-elected personnel in order to protect the privacy of the parties involved, and that Athena Andaya join in the session. The open meeting to reconvene at 2:51 p.m. Motion seconded by Ms. Wenger.

Adjournment

Mr. Schlosser adjourned the meeting at 2:51 p.m.

Attest: _____

Bryon Schlosser, Chairperson

Joe Vaught, Vice-Chairperson

Errol Wuertz

Sue Wenger

Connie O'Brien