

MINUTES OF THE MEETING
Kansas Real Estate Commission
October 21, 2019

The Kansas Real Estate Commission held its regular meeting on Monday, October 21, 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

Kansas Real Estate Commission Legal Counsel:

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

Members of the Public:

Todd Woodburn
Patty Sanders
Kathy McCarty
Patrick Vogelsberg
Barbara Boulanger

Call to Order

Mr. Schlosser called the meeting to order at 9:01 a.m.

Approval of the Minutes of the August 19, 2019 Meeting

Mr. Vaught made the motion, seconded by Mr. Wuertz, to approve the minutes from the August 19, 2019 meeting. Motion carried unanimously.

Hearing of Jason Gann, Docket No. 19-7939

Hearing of Aleisha Hardison, Docket No. 20-8043

Hearing of Amy Wood, Docket No. 20-8044

Mr. Schlosser recessed the KOMA meeting at 10:22 a.m.
Mr. Schlosser reconvened the KOMA meeting at 10:31 a.m.

Public Comment – License Deactivation/Reactivation

The Commission reviewed written comments from Patty Sanders, Barbara Boulanger and Cathy Sheets against the removal of the current broker's signature on the form for a licensee to notify the Commission of their deactivation from the broker's company and immediate reactivation to a new company (license transfer).

Patty Sanders, Barbara Boulanger and Todd Woodburn provided oral comments concerning licensees not informing the supervising broker of their intention to leave the company. Although notification could be required by company policy or an independent contractor agreement, the licensee may not follow it. While the Commission's expedited processing and notification to the broker is appreciated, a 72-hour delay in processing would give brokers time to contact consumers with active listings, collect company property, update MLS, etc. Mr. Macheers indicated a delay would require a statute change, and Mr. Wisner pointed out it would be applied to all deactivations even those without a request to reactivate.

Ms. Wenger suggested a checkbox or informational statement be added to the License Change form to make licensees aware pending transactions and brokerage relationships should be discussed with the supervising broker before deactivation. Staff will draft a revised form for review at the next meeting. Kathy McCarty suggested the issue be covered in mandatory continuing education courses. Staff will include best practices for deactivation and reactivation in the proposed outline for the new Kansas required core course pending revisions to K.A.R. 86-1-11.

Advertising and Education Regulations – Notice of Hearing Draft

The Commission reviewed a draft of the Notice of Public Hearing scheduled for January 6, 2020 to consider adoption 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 on a permanent basis. Mr. Wisner noted two technical changes were added to K.A.R. 86-3-7 since the initial draft to include any form of advertising media and use of font size to determine whether a supervising broker's trade name or business name is at least two times larger than an affiliated licensee's name or team name.

KAR – Rebates

The Commission reviewed the October 7, 2019 memo to the Kansas Association of Realtors' Governmental Affairs Committee (KAR) from Patrick Vogelsberg, Vice-President of Governmental Affairs for KAR. The memo provided background on rebates, Kansas Attorney General Opinion 2018-17, 2019 SB 42, and possible legislation defining rebates and capping them at 0.5% of the purchase price. Mr. Vogelsberg stated he was seeking to provide clarity to the industry. The Commission members indicated the need to define rebates similar to attempts in the 2019 legislative session.

KAR – Home Inspector Registration

The Commission reviewed the October 7, 2019 memo from Mr. Vogelsberg, to the KAR Governmental Affairs Committee which provided background on Home Inspector registration. Mr. Vogelsberg indicated the home inspectors prefer to be registered rather than licensed and believe certain administrative tasks and fees could be handled by the Commission while complaints and violations of the Consumer Protection Act could be referred

to the Attorney General's office. Requirements for initial registration may include education, an exam, a criminal background check, demonstration of competency and fees. Requirements for registration renewal may include continuing education and fees. There are an estimated 200-250 home inspectors in Kansas.

Delegation of Authority – Compliance and Reporting of Information

The Commission reviewed a proposed Delegation of Authority document granting staff authority to resolve certain compliance and reporting of information issues. The document replaces previous approvals and provides direction to staff when warning letters or directives may be used or when a scenario or violation not listed in the document must be reviewed by the Commission or a Commission member(s) on the investigative team, as applicable. Egregious violations or a history of prior similar violations would require referral to the Commission or investigative team. The proposed document also provides formal approval to issue written notices requiring applicants and licensees to provide information, request payment/funds or grant approvals.

Mr. Wuertz made the motion, seconded by Ms. Wenger, to approve the Delegation of Authority—Compliance and Reporting of Information as presented and that all prior delegations of authority related to compliance matters granted by the Commission on May 14, 2015, March 20, 2017 and May 21, 2018 be superseded. Motion carried unanimously.

Mr. Schlosser recessed the KOMA meeting at 12:35 p.m.
Mr. Schlosser reconvened the KOMA meeting at 12:55 p.m.

Rescind KREC Guidance Document 18-01 – Display Licenses

Effective July 1, 2019, there is no longer a statutory requirement to display licenses. Mr. Wuertz made the motion, seconded by Ms. Wenger, to withdraw the Commission's Guidance Document 18-01 effective immediately. Motion carried unanimously.

Licensee, Education and Exam Report

Ms. White reviewed the Applicant Status Report as of September 30, 2019. The Commission has 283 pending applications (72 salesperson, 30 broker and 181 fingerprint-only files).

As of September 30, 2019, there are 16,908 licensees, an increase of 351 over last year.

Staff approved 25 elective and six mandatory continuing education courses between August 1, 2019 and September 30, 2019.

In FY20, Pearson Vue administered 749 exams with an overall pass rate of 65%. Thirteen brokers and 142 salespersons tested based on requirements met in another state. Brokers had a 54% pass rate, and salespersons had an 84% pass rate.

Following a September business review meeting with Pearson Vue, the exam exit survey was revised and additional exam sites were added for Emporia, Garden City, Salina, Pittsburg, and Ft. Riley.

Director's Report

The Commission's approved budget was submitted to the Division of Budget in September. Enhancement requests included: 1) maintain FY20 Pay Plan Increases in FY21; 2) increase the real estate fee fund

expenditure authority due to major increases in OITS costs and 3) create a special litigation reserve fund. The Division of Budget's decision on the enhancement requests is expected by November 10, 2019.

Next Meeting Date Location

The Commission will meet in Pittsburg, KS at the Chamber of Commerce office on November 18, 2019.

Adjournment

Mr. Wuertz made the motion, seconded by Mr. Vaught, to adjourn the meeting. Motion carried unanimously.

Mr. Schlosser adjourned the meeting at 1:11 p.m.

Attest: _____

Bryon Schlosser, Chairperson

Joe Vaught, Vice-Chairperson

Errol Wuertz

Sue Wenger

Connie O'Brien