

MINUTES OF THE MEETING
Kansas Real Estate Commission
August 19, 2019

The Kansas Real Estate Commission held its regular meeting on Monday, August 19, 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
Wendy Alkire, Compliance Director

Kansas Real Estate Commission Legal Counsel:

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

Members of the Public:

Brad Barker
Kathy McCarty
Debbie Vaught
Sean Tomb
Patrick Vogelsberg

Call to Order

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

Additions to Agenda

Mr. Wuertz requested two items, Monitoring Devices and Dual Agency, be added to the agenda.

Approval of the Minutes of the June 17, 2019 Meeting

Mr. Vaught made the motion, seconded by Ms. Wenger, to approve the minutes from the June 17, 2019 meeting. Motion carried unanimously.

Hearing of Peter Pellegrino, Docket No. 19-7922

Hearing of Stephanie Abbott, Docket No. 19-7938

Mr. Schlosser recessed the KOMA meeting at 10:02 a.m.
Mr. Schlosser reconvened the KOMA meeting at 10:10 a.m.

FY20 and 21 Budget Review and Approval

Mr. Wisner presented proposed enhancements and realignments.

Proposed Enhancement Requests

- Maintain FY20 Pay Plan Increases in FY21 (Technical Adjustment) – The commission requests to increase expenditure authority across all funds in FY21 by \$17,168 to provide for the salary increase authorized by the FY20 pay plan increase.
- Increased OITS costs in FY21 – The commission is requesting to increase the real estate fee fund expenditure authority by \$5,636 in FY21.
- Special Litigation Reserve Fund - The commission requests the authority to create a Special Litigation Reserve Fund to be funded by a transfer of up to \$20,000 from the Real Estate Fee Fund in both FY20 and FY21.

Proposed Realignments for FY20 and 21

- Reduce real estate fee fund revenue in FY20 and FY21 due to revisions to late fee calculation (SB 60).
- Reduce real estate fee fund revenue further in FY21 due to decrease in application and licensee fees.
- Reduce background fee fund revenue in FY21 due to decrease in license applications.
- Transfer expenditures from FY20 to FY21 from recovery fund for salaries.
- Increase in projected expenditures on conference registrations and travel expenses.
- Decrease in database and information technology services for contract vendor.
- Decrease in Attorney General and Dept of Administration reimbursements.

Mr. Wuertz made the motion, seconded by Mr. Vaught, to approve the revisions to the FY20 and 21 Commission budget and to give Mr. Wisner authority to make any technical changes and other changes requested by the Division of Budget and the Governor's office during their review. Motion carried unanimously.

Compliance Report

Ms. Alkire reviewed the status of open legal cases. The oldest complaint pending review (non-litigation) is from August 31, 2018. The oldest disciplinary file pending staff review is from April 25, 2018. The oldest disciplinary file pending review by the attorney general's staff is from June 5, 2018.

Staff completed 397 compliance reviews in FY2019. There is currently a ten-month turnaround time for compliance review results.

Ms. Alkire presented the first compliance courses on July 23, 2019. Both the Broker Supervision and BRRETA courses were well received with a lot of participation. Courses will be offered again on November 14, 2019 and March 25, 2020.

Licensee, Education and Exam Report

Ms. White reviewed the Applicant Status Report as of August 1, 2019. The Commission has 276 pending applications (54 salesperson, 26 broker and 196 fingerprint-only files).

As of August 1, 2019, there are 16,899 licensees, an increase of 567 over last year, and 635 expired-renewable licensees.

Staff approved five elective continuing education courses, five Broker Fundamentals pre-license courses, and four broker pre-license supplemental courses between June 1, 2019 and July 31, 2019.

In FY20, Pearson administered 236 exams with an overall pass rate of 66%. Eight brokers and 51 salespersons tested based on requirements met in another state. Brokers had a 75% pass rate, and salespersons had an 84% pass rate.

The number of original salesperson licenses issued decreased from 1,744 in FY17 to 1,618 in FY19. Most licenses are issued in the 3rd and 4th quarter, particularly in March. December has the least number.

Ms. White reported on background check changes including the upcoming Kansas Criminal History Access Tool (KCHAT) which will allow for electronic fingerprinting and reports. Staff will personally monitor the destruction of any hard copies of the reports. Everyone with access to background check information, including all commissioners and staff, must complete security awareness training. Staff revised the waiver form to include the FBI's privacy act statement and information on how to challenge criminal records.

Director's Report

Real estate fee fund receipts are \$1,231,701. This is 5% above estimates. FY19 revenue was the highest it has been since at least FY08. Real estate fee fund expenditures for FY2019 are \$1,070,433. This is less than 1% or \$4,719 lower than estimated.

The real estate fee fund balance currently stands at \$916,320 up \$103,632 from July 1, 2018. Background investigation fee fund receipts for FY2019 are \$124,686 which is almost 1% lower than estimated. Real estate recovery fund receipts for FY2019 are \$76,492 and the balance in the fund is at \$291,205.

All approved regulatory changes have been stamped by the Division of Budget and Department of Administration. They are pending review by the Attorney General's office.

The Commission's newsletter and Alexa App were selected for Education and Communication awards to be presented at the ARELLO Conference in Denver, CO. The Alexa App was designed in partnership with the Information Network of Kansas at no cost to the Commission. Mr. Wisner will demonstrate the App at the next Commission meeting.

Mr. Wisner relayed an update from Derek Ramsey, KCRAR Vice President, Realtor Advocacy and Commercial Division regarding their review of the Commercial Real Estate Task Force discussions. KCRAR is still discussing any recommendations based on the review of the discussions.

Monitoring Devices

Mr. Wuertz relayed information from a licensee about monitoring devices in listed properties. Kathy McCarty stated “video & sound monitored” is included in their showing instructions, when applicable. Staff will ask if other jurisdictions have regulatory requirements related to disclosure of monitoring devices.

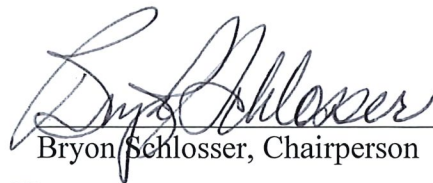
Dual Agency

Mr. Wuertz relayed information from a broker who questioned why they were cited for dual agency when the parties were represented by two different licensees in the brokerage. The answer is dual agency occurred because the broker could not be a transaction broker unless the two licensees were appointed as *designated* agents to the exclusion of all other affiliated licensees.

Adjournment

Mr. Schlosser adjourned the meeting at 11:24 a.m.

Attest: 10/21/2019


Bryon Schlosser, Chairperson


Joe Vaught, Vice-Chairperson


Errol Wuertz


Sue Wenger


Connie O'Brien