

MINUTES OF THE MEETING  
Kansas Real Estate Commission  
October 19, 2020

The Kansas Real Estate Commission held its regular meeting on Monday, October 19, 2020, at 9:00 a.m. by telephone conference call

**Commissioners Present:**

Errol Wuertz, Chairperson  
Bryon Schlosser, Vice-Chairperson  
Joe Vaught, Member  
Sue Wenger, Member  
Connie O'Brien, Member

**Staff Present:**

Erik Wisner, Executive Director  
Kelly White, Deputy Director, Director of Licensing and Education  
Wendy Alkire, Director of Compliance  
Amber Nutt, Real Estate Education Specialist  
Stacey Serra, Legal Assistant  
Alycia Smith, Senior Licensing Specialist  
Kiereon Sisney, Real Estate Specialist/Auditor  
Cindy Boswell, Real Estate Specialist/Investigator

**Kansas Real Estate Commission Legal Counsel:**

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

**Members of the Public:**

Kathy McCarty  
Mark Tomb  
Mark Barker  
Kimberly Goudy  
Fran Oleen

**Call to Order**

Mr. Wuertz called the meeting to order at 9:01 a.m. and called the roll to signify presence at the open meeting via conference call.

**Approval of the Minutes of the August 24, 2020 Meeting**

Mr. Schlosser moved the minutes of the August 24, 2020 meeting be approved. Mr. Vaught seconded the motion. Motion carried unanimously.

### **Unlicensed Activity Discussion – Follow up from August 24, 2020 Meeting**

The Commission reviewed a draft of and made revisions to proposed statutory changes to effectuate a limitation on the sale of real estate without a license in order to protect public health, safety, and welfare (K.S.A. 58-3035, K.S.A. 58-3036 and K.S.A. 58-3037), to provide authority to discipline unlicensed persons conducting activities requiring a Kansas real estate license and to provide authority for the Commission to issue an administrative fine and a cease and desist order (K.S.A. 58-3065), and to add subpoena power (K.S.A. 74-4202). Mr. Schlosser recommended several technical changes to the draft document.

Mr. Schlosser moved to present to the legislature for approval the proposed revisions with the technical changes to K.S.A. 58-3035, K.S.A. 58-3036, K.S.A. 58-3037, K.S.A. 58-3065 and K.S.A. 74-4202. Ms. Wenger seconded the motion. Motion carried unanimously.

### **Compliance Report**

The oldest disciplinary file pending staff review is from August 12, 2019. The oldest disciplinary file pending review by the attorney general's staff is from March 29, 2019. The oldest complaint pending review (not on hold) is from May 1, 2020.

Staff completed 44 compliance reviews in FY2021. An additional 41 brokers were contacted but had no transaction records to review. During seven follow up compliance reviews, 43% had no violations or only minor violations.

Compliance courses are scheduled for January 21 and April 1, 2021 for BRRETA and January 28 and April 7, 2021 for Broker Supervision.

### **Licensee, Education and Exam Report**

As of September 30, 2020, there are 17,874 licensees and 342 pending applications (101 salesperson, 10 broker and 231 fingerprint-only files).

Staff approved one Principles of Real Estate course, one mandatory and 18 elective continuing education courses from August 1 to September 30, 2020. Two elective courses were denied.

In FY2021, Pearson Vue administered 1,033 exams with an overall pass rate of 61%. Five brokers and 110 salespersons tested based on requirements met in another state. Brokers had a 40% pass rate, and salespersons had an 85% pass rate. Staff and subject matter experts are in process of reviewing the state portion of the salesperson exam.

No response was received to the Kansas Association of Realtors' and the Commission's newsletters requesting feedback on the principles of real estate and Kansas practice course outlines. Staff will request feedback during the October 27, 2020 educators' meeting.

The ARELLO Distance Education Committee is reviewing the Distance Education Standards and Policies & Procedures to propose requirements for synchronous virtual distance education.

### **Director's Report**

The real estate fee fund balance as of September 30, 2020 is \$1,018,781 which is up \$38,601 from July 1, 2020. Real estate fee fund receipts for FY2021 are \$285,032 which is 1% lower than estimated. Real estate fee fund expenditures for FY2021 are \$230,202 which is 4% or \$48,385 lower than estimated.

Background investigation fee fund receipts for FY2021 are \$37,500 which is 5% higher than estimated. The balance in the fund as of September 30, 2020 is \$12,304 up \$512 from July 1, 2020.

Real estate recovery fund receipts for FY2021 are \$3,664 and the balance in the fund as of September 30, 2020 is \$296,216 up \$3,098 from July 1, 2020.

The proposed changes to the transaction identification, records retention and trust account regulations (K.A.R 86-3-10, 86-3-18, 86-3-21 and 86-3-22) approved at the August meeting are under review by the Department of Administration.

The ARELLO and KAR annual meetings were held virtually and included improved keynote addresses and interesting information on distance education and home sales forecasts.

#### **Executive Session - Personnel**

Mr. Schlosser made the motion, seconded by Ms. Wenger, that the Commission recess into executive session to discuss personnel matters of non-elected personnel and to protect the privacy of the parties involved regarding job performance pursuant to K.S.A. 75-4319(b)(1). Erik Wisner, Executive Director, and Athena Andaya, General Counsel were required to attend to aid the Commission in their discussion. The Commission will reconvene the open meeting virtually at <https://zoom.us/j/2135172100> in 20 minutes at 10:30 a.m. Motion carried unanimously.

Mr. Wuertz recessed for executive session at 10:10 a.m.

Mr. Wuertz reconvened the KOMA meeting at 10:30 a.m.

#### **Public Comments**

In response to a question from Mr. Wuertz, Mark Tomb stated proposed legislation to issue licenses timely to individuals moving to Kansas will be back for review in the next legislative session but will mainly apply to medical and education professions because they are COVID-19 essential. Mr. Wisner said the time frame for issuance of real estate licenses with no disqualifying criminal activity is within 24 hours.

#### **Adjournment**

Mr. Schlosser moved to adjourn the meeting. Ms. Wenger seconded the motion. Motion carried unanimously.

Mr. Wuertz adjourned the meeting at 10:35 a.m.