

MINUTES OF THE MEETING
Kansas Real Estate Commission
September 21, 2015

The Kansas Real Estate Commission held its regular meeting on Monday, September 21, 2015 at 9:00 a.m. by Conference call.

Commissioners Attending by Phone:

Sue Wenger, Chairperson
Bryon Schlosser, Member
Shirley Cook, Member
Joseph Vaught, Vice Chairperson
Errol Wuertz, Member

Staff Present:

Erik Wisner, Executive Director
Kelly White, Director of Licensing and Education
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel by Phone:

Sarah Fertig, Assistant Attorney General
Lisa Mendoza, Assistant Attorney General

Call to Order

Ms. Wenger called the KOMA meeting to order at 9:03 a.m.

Approval of the Minutes of the August 17, 2015 Meeting

Motion was made by Mr. Wuertz, seconded by Ms. Cook, to approve the minutes from the August 17, 2015 meeting. Motion carried unanimously.

I-Team Report

I-Team discussed citing brokers for failure to supervise affiliated licensees and the enforceability of those citations. I-Team determined brokers should be cited for failure to supervise if the affiliated licensee is working while expired, before their transfer is effective, or the violations committed by affiliated license were actions the supervising broker had direct control over. The Broker Supervision Task Force has developed a draft regulation that lays out the responsibilities of the supervising broker more clearly. Until that regulation is in place this guidance will be helpful for staff reviewing disciplinary cases.

I-Team had a brief discussion regarding citing the regulation, K.A.R. 86-3-15 or the statute, K.S.A. 58-3062(a)(15) when a licensee fails to disclose personal interest in a property

transaction. It was determined the regulation enhanced the statute and should be used when citing a violation which the licensee was not the principal.

I-Team also discussed a condition previously imposed but not currently used by the Commission that required licensees to be fingerprinted and submit to a background check if they received their license prior to implementation of the Rapback program and failed to report a previous felony arrest outside the bar period. I-Team believes this condition should be reimplemented, by requiring the fingerprinting and background check, the licensee is added to the Rapback program and the Commission will be notified if the licensee is convicted of another felony. Mr. Schlosser moved to endorse the I-Team recommendation. Mr. Wuertz seconded the motion. The Motion carried unanimously.

According to Mr. Wisner, September 18 was the first time the Commission had less than 50 pending complaints since he started in February 2015. The reduction is due to several factors including staff discretion to close complaints and failure to report violations. Reducing the backlog has allowed investigators to focus on more serious issues. Ms. Wenger would like to commend staff for their performance.

Review of Other States Broker Experience Requirements

The Commission is investigating ways to improve the broker application process. Determining when an applicant has enough experience for a broker's license has been a challenge for the Commission for at least the last four years.

Ms. Fertig researched requirements for a broker's license in several neighboring states and states from which the Commission receives a high number of applicants. In most states, the applicant must have been actively engaged in the practice of real estate for two out of the last five years. Some states determine this by using a broker certification. The applicant's broker submits a statement certifying the applicant has been actively engaged. The Commission has also had questions regarding job history for the five years prior to application especially if the applicant was not involved in real estate for the entire time. Requiring a work summary on the broker application would provide this information. This would be less time intensive for staff intensive and provide more relevant information to the Commission than the current practice of providing only a transaction list. Mr. Wuertz would like to see revisions to the broker point sheet. He believes there are items applicants should be given credit for not currently listed, for example, an MBA. Ms. Wenger agreed on the need for revision and stated transactions an applicant worked on but did not close should be given some credit as well. Ms. Wenger is also concerned that listing the last five years is too long. The industry is changing so quickly, it may be better to shorten the period to three years. Ms. Wenger would also like to explore creating two tiers of broker's licenses; those who want to be independent brokers and those who want to be supervising brokers. Supervising brokers would have a higher level of required pre-license education including a management course. Ms. Wenger asked Ms. White to find out how difficult it would be to offer a broker management course, either through already approved pre-license providers or through the Certified Real Estate Brokerage Manager program. The second tier of broker's licenses would also resolve the issue that comes up when a nonresident broker

does not want to supervise and doesn't have the experience to be an associate broker in Kansas, but is barred from a salesperson's license in Kansas by current statutory language.

Ms. Fertig advised the Commission members some of the changes they were proposing would require a statutory change, such as the number of years an applicant is active in real estate prior to applying for a license and creating two tiers of brokers' licenses.

Staff will work on a revised broker application, incorporating some of the commission members' ideas. Mr. Wisner will provide a revised application for consideration at the November meeting.

Revisions to Guidance Document 2013-01 (Original Applications)

Ms. Fertig presented alternative guidelines to replace Guidance Document 2013-01 (Original Applications). This document delegates to staff the authority to approve certain original applications. This guidance document went into effect in January 2013 and was revised in October 2014.

Mr. Wisner indicated his preference that the revised document be considered as guidelines to staff as opposed to a guidance document. Mr. Schlosser moved to withdraw Guidance Document 2013-01 (Original Applications), and adopt the recommended guidelines as internal policy. Mr. Wurtz seconded the motion. Motion passes unanimously.

Ms. Cook left the call at 10:56 a.m.

Review Possible October 16, 2015 Agenda Items

The October 16, 2015 Commission Meeting will begin at 8:30 a.m. The meeting is being held at the Capitol Plaza Hotel in Topeka, Kansas during the annual conference of the Kansas Association of Realtors.

Public comments on K.A.R. 86-1-5 (Fees) will immediately follow the call to order.

Mr. Wisner indicated he met with met with Luke Bell and Rod McIntyre of the Kansas Association of Realtors regarding the draft changes to the continuing education regulations. He indicated their formal comments will be ready for review and can be placed on the agenda for the October meeting.

Ms. Wenger would like to add the two-tiered brokers' license discussion to the meeting as well.

KAPA proceedings will be held after the adjournment of the regular meeting if necessary.

Mr. Vaught would like a survey added to the agenda for feedback from the public. Mr. Wisner will request the agenda be available on the convention registration table.

Ms. Cook rejoined the call at 11:16 a.m.

License Education and Exam Report

Ms. White informed the Commission there are currently 14,277 licensees. The closest the Commission has been to this number of licensees was in December 2011, when there were 14,237 licensees.

Staff approved three elective continuing education courses and one mandatory broker core course.

The overall examination pass rate for August was 67%; calendar year to date was 70%. Ms. White also presented a breakdown of the pass rates by school.

An example of the continuing education renewal form was reviewed and staff asked Commission members for any recommendations on improvements to the form.

Directors Report

Mr. Wisner attended the ARELLO annual meeting in Washington D.C. on September 9 through September 12. Mr. Wisner commented that the meeting was extremely well run and well attended. In addition to the agenda items, it was a good opportunity to network with colleagues in other states. There is a great deal of collaboration about issues affecting real estate license law agencies.

Mr. Wisner commented that several states are working on online licensing projects. Some states have gone as far as allowing only online renewals and eliminating the requirement for wall licenses. If a licensee or member of the public needs proof of licensure, they log into the database and print a copy. This reduces staff time and mailing costs. Mr. Wisner felt the Commission should consider this option in Kansas. There was also discussion on the prevalence of real estate teams and making sure these teams are complying with license law. Several states were seeing issues with advertising and some states had revised their advertising statutes to deal with the teams. I-Team has seen similar issues.

Mr. Wisner stated that monitoring continuing education in general was a focus at the meeting. Some states are using analytics more and will correlate licensee history with education providers to see if providers with lower passing rates have more licensees with violations. There was also discussion regarding the number of continuing education hours a licensee can take in one day; some states cap the amount at eight hours. Also, some states ban taking the same elective course in consecutive renewal periods.

Ms. Wenger attended the ARELLO Commissioner College portion of the meeting. There were approximately 30 people from several different states. Ms. Wegner felt the information presented was extremely valuable and would like to send a Commission member to the next college. She believes new Commissioners would benefit from the information.

Mr. Wisner stated that the Broker Supervision Task Force has developed a draft regulation for consideration. The proposed language lays out the responsibilities of the supervising broker more

clearly. The draft regulations should be ready for review by the Commission at an upcoming meeting.

Mr. Wisner informed the Commission that he submitted the budget on September 4. No enhancements were requested for fiscal year's 2016 or 2017. The budget narrative was condensed substantially and the performance measures were revised. He would like feedback from the Commission regarding making the measures more relevant. These performance measures are included in the Governor's Budget submitted to the Legislature annually.

Mr. Wisner updated the Commission on the court ruling pertaining to the fee sweep case. The Court ruled the organizations whose members pay license fees to the agencies whose fee funds were swept did have standing to sue the state. Mr. Wisner was not sure if the plaintiffs were proceeding with the case, but it did establish a precedent if similar sweeps happen in the future.

The content for the new website is complete and staff is beginning a thorough quality control review. The new website will allow for a change in the delivery method for Commission materials. Commission members will download the materials from the website instead of receiving a CD or an email with meeting information.

The new document management system is in the user acceptance testing phase. The go-live date should be before the end of October.

The developer for the OLMS and RELS systems was in the office a few weeks ago to meet with Ms. White and Mr. Wisner. There are some further enhancements to OLMS that need to be made before going live.

The Pre-Licensing Exam RFP has been sent to the Office of Procurement for review. It should be out for bid within the next several weeks.

Adjournment

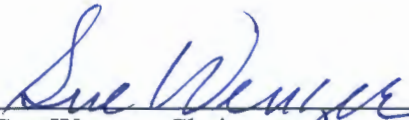
Ms. Wenger adjourned the meeting at 11:45 a.m.

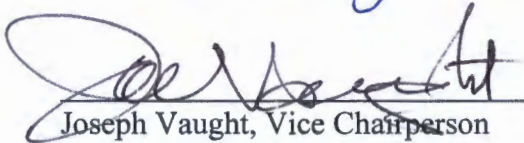
Upcoming Commission Meeting Dates

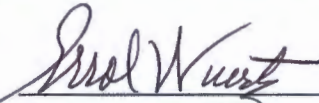
October 16, 2015, KAR Annual Meeting
November 16, 2015

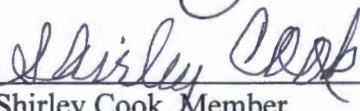
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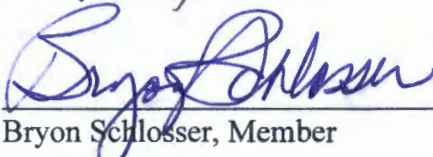
Date: October 16, 2015


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Joseph Vaught, Vice Chairperson


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Shirley Cook, Member


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