

MINUTES OF THE MEETING  
Kansas Real Estate Commission  
February 20, 2017

The Kansas Real Estate Commission held its regular meeting on Monday, February 20, 2017 at 9:00 a.m. at Three Townsite Plaza, Suite 200, 120 SE 6<sup>th</sup> Avenue, Topeka, KS 66603.

**Commissioners Present:**

Joe Vaught, Chairperson  
Bryon Schlosser, 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:**

Sarah Fertig, Assistant Attorney General

**Members of the Public:**

Patrick Vogelsberg, Kansas Association of Realtors

**Call to Order**

Mr. Vaught called the meeting to order at 8:59 a.m.

**Public Comment for Proposed Regulation K.A.R. 86-1-5**

Mr. Wisner summarized the proposed regulation. No written comments were received in advance of the hearing. Mr. Wisner called for comments from the public. There were no public comments.

K.A.R. 86-1-5 is proposed for amendment to eliminate fees being charged for several business processes and increase the fee for approval of an original course of instruction. Amending this regulation will result in annual decrease in revenue of \$23,000 or approximately 2.2% of total fee revenue collected by the Commission.

Motion was made by Mr. Schlosser, seconded by Mr. Wuertz, to approve the proposed regulation. Motion carried unanimously.

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

Ms. Wenger, “aye”  
Mr. Vaught, “aye”  
Mr. Wuertz, “aye”  
Mr. Schlosser, “aye”  
Ms. O’Brien, “aye”

Mr. Vaught recessed the KOMA meeting at 9:04 a.m.  
Mr. Vaught reconvened the KOMA meeting at 9:34 a.m.

### **Approval of the Minutes of the December 21, 2016 Meeting**

Motion was made by Mr. Schlosser, seconded by Mr. Wuertz, to approve the minutes from the December 21, 2016 meeting. Motion carried unanimously.

### **Commercial Co-Brokerage Agreements**

The Commission currently posts two forms on the website related to the broker cooperation agreement required in K.S.A. 58-3077. A broker cooperation agreement is required to allow an individual licensed in a state other than Kansas to perform services requiring a Kansas real estate license with respect to commercial real estate. Although the Commission is not required to produce the form, the general consensus among Commission members was to keep the form on the website to assist licensees. Staff will work on combining the two forms into one along with adding a disclaimer recommending the parties to the agreement have the agreement reviewed by legal counsel. Revisions will be presented at the March Commission meeting.

### **Regulation Changes**

#### **Education Regulations**

Revisions to the education regulations were previously presented at the February 15, 2016 Commission meeting. Since that time, staffs have met separately with the Kansas Association of Realtors and schools to get input on the original draft. The revised draft includes enhanced distance education requirements, removal of the requirement for schools to renew courses annually and to have instructors approved by the Commission, elimination of the required broker core course, allowance for continuing education to be earned by attending a Commission meeting, changes to the course submission requirements for schools and licensees and removal of outdated and self-regulating language. These regulations need additional revisions and are not ready for review at this time. Mr. Wisner and Ms. White will be reaching out to the schools to engage them regarding the changes.

Mr. Vaught recessed for a short break at 10:48 a.m.  
Mr. Vaught reconvened the meeting at 10:59 a.m.

#### **K.A.R. 86-3-7**

The language in this regulation related to advertising was adopted into statute in 2010 and is no longer necessary. Motion was made by Ms. Wenger, seconded by Mr. Wuertz, to repeal K.A.R. 86-3-7. Motion carried unanimously.

K.A.R. 86-3-32

The language for the regulation related to the definition of rebate has been approved by the Department of Administration and the Attorney General's office. The Commission decided to set the proposed regulation for public hearing along with the repeal of K.A.R. 86-3-7.

**Licensee, Education and Exam Report**

Ms. White informed the Commission the number of licensees as of February 1, 2017 was 15,059. This was the first time the licensee count has exceeded 15,000 since October 2010 when the number of licensees was 15,205. The highest number of licensees reported since tracking began in 2004 is 17,668 in October 2006.

Staff approved three continuing education courses in January and nine continuing education courses in February. One continuing education course was denied in February.

In December, there were 201 exams taken with an overall pass rate of 65%. There were 19 broker exams with a pass rate of 79% and 182 salesperson exams with a pass rate of 64%. Five brokers and 43 salespersons tested by waiver for equivalent requirements.

In January, there were 251 exams taken with an overall pass rate of 69%. There were 11 broker exams with a pass rate of 82% and 240 salesperson exams with a pass rate of 68%. Five brokers and 45 salespersons tested by waiver for equivalent requirements.

In FY17, there have been 1,599 exams administered and an overall pass rate of 67%. 20 brokers and 251 salespersons tested by waiver for equivalent requirements.

**Director's Report**

FY2017 real estate fee fund receipts are \$650,388. This is 3% above estimates. FY2017 expenditures, excluding encumbrances are \$526,214. This is 7% or \$77,000 less than estimated. This is mostly due to payments for one-time expenditures for capital expenses and IT support that have yet to occur this fiscal year.

The Commission fee fund balance was \$528,515; this is up \$80,000 from July 1. The carryover will drop over the next few months with the previously mentioned one-time expenditures and the FY2016 encumbrances for the System Automation project. Background investigation fee fund receipts were \$67,038, which is 2% over estimates. The Real Estate Recovery Fund receipts were \$20,938 and the balance of the fund was at \$262,407.

Work continues on the online licensing system. The vendor is currently working on defining rules and steps in the process for individuals to submit application materials online. The project management team has provided staff a link to a test site to begin viewing the look of the new system.

Mr. Wisner provided an overview of Senate Bill 76. The bill would place several restrictions/requirements on political subdivisions and licensing boards related to occupational licenses. These include: 1) waiving the license fees for military family members and low-income

individuals; and 2) issuing an occupational license to any in-state resident who applies for a license and is currently licensed to practice that occupation in another state (assuming their license is in good standing). The bill had a hearing in Senate Federal and State Affairs Committee. In general the proponents advocated for the local pre-emption component and easing burdens for low income individuals and military families seeking an occupational license. The chair noted the bill needed a lot of work and since Senate Federal and State Affairs is an exempt committee, they have plenty of time.

Mr. Wisner provided a review of the current status of active legal files. There are currently 335 active files.

Mr. Wisner provided copies of regulations regarding real estate teams that have recently been implemented in Nebraska. The Commission requested information from other jurisdictions to review at the next meeting.

Mr. Wisner received a request for a meeting from Kathleen Manchin the corporate counsel for Keller Williams. She would like to discuss advertising compliance with a group of team leaders, brokers and operating principals. Mr. Wisner will obtain potential dates for the meeting and provide those to Commissioners who may like to attend.

The April Commission meeting will be held in the board room of the Dodge City Community College on Tuesday, April 18, 2017.

Mr. Wisner asked if any Commissioners were interested in attending the ARELLO Mid-Year Meeting in Louisville, Kentucky, as there are funds available for travel.

**Adjournment**

Mr. Vaught adjourned the meeting at 11:49 a.m.

Attest: \_\_\_\_\_

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Joe Vaught, Chairperson

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Bryon Schlosser, Vice-Chairperson

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Errol Wuertz

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Sue Wenger

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Connie O'Brien