

MINUTES OF THE MEETING
Kansas Real Estate Commission
June 20, 2016

The Kansas Real Estate Commission held its regular meeting on Monday, June 20, 2016 at 9:00 a.m. at Three Townsite Plaza, Suite 200, 120 SE 6th Avenue, Topeka, KS 66603.

Commissioners Present:

Sue Wenger, Chairperson
Joe Vaught, Vice-Chairperson
Errol Wuertz, Member
Bryon Schlosser, Member – By Phone
Shirley Cook, Member

Staff Present:

Kelly White, Deputy Director, Director of Licensing and Education
Wendy Alkire, Compliance Director
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

Ms. Wenger called the KOMA meeting to order at 9:00 a.m.

Approval of the Minutes of the May 16, 2016 Meeting

Motion was made by Mr. Schlosser, seconded by Mr. Wuertz, to approve the minutes as amended from the May 16, 2016 meeting. Motion carried unanimously.

Ms. Wenger recessed the KOMA meeting at 9:06 a.m. for KAPA proceedings.

Ms. Wenger reconvened the KOMA meeting at 9:34 a.m.

Gifts and Gratuities Revisions

In the previous meeting, Ms. Fertig implied the Gifts and Gratuities Guidelines was a legally binding document; she wanted to ensure the Commission understood this is not the case. Ms. Fertig has been working on updating the guidelines to come into compliance with current law.

Rebates are still prohibited but not gifts or gratuities. Ms. Fertig began by reviewing the definition of a rebate, “a return of part of a payment serving as a discount or reduction”. She clarified the differences between a rebate and a gift or gratuity. Any item or items worth \$1,000.00 or more, or a percentage of the purchase price would be more in line with a rebate than a gift. Items that are not cash equivalent or something that does not alter the price of the property would be permitted. The purpose of this document is to give guidance to licensees but the ultimate decision by the Commission will depend on the facts every time. Ms. Fertig will incorporate the Commission’s comments into a new draft and forward to Ms. White for review.

Revisions to K.S.A 86-1-5

Ms. Fertig updated the Commission regarding revisions to K.S.A. 86-1-5 Fees. The proposal includes eliminating several smaller monetary fees. Language referencing the fees for electronic fingerprints has also been added. Motion was made by Mr. Schlosser, seconded by Mr. Vaught, to approve the revisions to the statute. Motion carried unanimously. Mr. Vaught requested the Commission address Kansas City Regional Association of Realtors regarding the fee changes.

Licensee, Education and Exam Report

Ms. White informed the Commission there were 14,670 licensees as of June 1, 2016. We are up by 500 last year and up 1,000 by June of 2014.

In May, staff approved nine (9) elective continuing education courses.

In May, the overall pass rate for brokers was 64%, for salespersons it was 70%. Overall 70% pass rate for May.

Ms. White attended the Real Estate Educators Association Conference, June 10 through June 13 in Denver, Colorado. She reported the conference was a great networking and sharing opportunity with other agencies and educators.

Mr. Vaught requested Ms. White to look at increasing commercial continuing education opportunities.

Video Production Meeting

Mr. Wisner, Ms. White and Ms. Nutt met with KTWU on Washburn campus. The station works with nonprofit organizations to make instructional videos and documentaries. Staff proposed videos under five (5) minutes in length to be hosted on the Commission website. These videos would focus on content relevant to licensees and the public, and work to increase understanding and compliance with Kansas law. By general consensus of the Commission, Ms. Nutt is to proceed with working with KTWU.

Director’s Report

In the absence of Mr. Wisner, Ms. White informed the Commission that FY 2016 real estate fee fund revenues after transfers and recovery of expenses are \$918,990. This is exactly in line with estimates for FY 2016. In addition, the fund has reached the \$100,000 threshold to end 10% transfers to the State General Fund. There will be no transfer of any June receipts to the State

General Fund. FY 2016 Commission expenditures excluding encumbrances are \$796,556. This is 12% or \$123,000 less than estimated. Most of the savings are from staff salaries (\$80,000 less) and the Webelan/Murali Kolla contract (\$30,000 less). This savings allows the Commission to encumber the estimated upfront cost of the System Automation project using FY2016 money. The KREC Fee Fund Balance is currently \$425,369, an increase of \$65,000 from July 1, 2015. Background investigation fee fund receipts are \$101,812, 11% above estimates. At the August meeting, Mr. Wisner will present a general overview of budget numbers. The Commission's final budget is due on or before September 15, 2016. New performance based budgeting requirements must be included.

Based on changes to the Kansas open records law in 2016, it may be in the best interest of Commission members to do Commission business through email addresses provided by the state of Kansas. The cost of addresses for all five (5) members would be \$750 annually. Commission members would login through the web application. Encryption would not be necessary. Motion was made by Mr. Vaught, seconded by Mr. Wuertz, to use email addresses provided by the state of Kansas. Motion carried unanimously

Ms. White and Mr. Wisner met with System Automation/Board of Healing Arts (BOHA) on June 2 for a kick off meeting. Staff is in the process of providing specifications for the document management portion of the system and a copy of a test database so System Automation/BOHA can begin working on cleaning our existing data.

The Commission has received multiple inquiries from the current landlord and other potential lessors about RFP requirements regarding a new lease for Commission offices. Initial proposals are due July 1.

The public hearing on revisions to regulations 86-1-2 (revocation), 86-1-4 (revocation), 86-2-8 (revocation), 86-3-19 (disclosure of relationship; immediate family member), 86-3-26a (accurate brokerage relationship disclosure), 86-3-30 (revocation) and 86-3-31 (broker supervision) is set for October 12, 2016 at 9:00 a.m in Wichita. This hearing and the October Commission meeting will coincide with the Kansas Association of Realtors annual meeting.

Regulations 86-1-10 and 86-1-11 (continuing education) are still being reviewed by the Department of Administration. The reviewer has several concerns with the structure of the regulation with the inclusion of differing standards for correspondence distance education. The best option may be a complete rewrite as opposed to amending the existing language. In addition, we may have to open up another CE regulation because of shared references from the two being amended.

Mr. Wisner attended the ARELLO District Meeting. Arkansas has increased their continuing education requirements from 12 to 18 hours every two years and increased their core class from 3 to 6 hours, with added emphasis on advertising and broker supervision. Kansas now has the lowest average annual continuing education requirements in the country. Alabama and Nebraska will start posting examination pass rates by school effective July 1. They are doing this based on open records requests and to see if it improves pass rates. Recently the Department of Justice

has come out with guidance for websites that fall under the Americans with Disabilities Act (ADA). Two of the biggest issues seem to be compliance with videos and pictures for the visually and hearing impaired. The Commission's website is reviewed on a quarterly basis for ADA compliance.

Adjournment

Ms. Wenger adjourned the meeting at 10:55 a.m.

Upcoming Commission Meeting Dates

July 18, 2016