

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

The Kansas Real Estate Commission held its regular meeting on Monday, March 20, 2017 at 9:00 a.m. at Three Townsite Plaza, Suite 200, 120 SE 6th 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
Wendy Alkire, Compliance Director

Kansas Real Estate Commission Legal Counsel:

Sarah Fertig, Assistant Attorney General
John Wesley Smith, Assistant Attorney General
Rachael Longhofer, Assistant Attorney General

Call to Order

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

Approval of the Minutes of the February 20, 2017 Meeting

Motion was made by Mr. Schlosser, seconded by Mr. Wuertz, to approve the minutes from the February 20, 2017 meeting. Motion carried unanimously.

Conference Hearing of Terrell Walls, Docket No. 17-5942

Mr. Vaught recessed the KOMA meeting at 10:11 a.m.
Mr. Vaught reconvened the KOMA meeting at 10:50 a.m.

Proposed changes to audit procedures and discipline

Mr. Wisner presented recommendations for changes to the audit/compliance review process from a joint team of staff, Disciplinary and General Counsel, and Ms. Wenger, as the Commission's I-Team representative. Revisions to this process have become more of an urgent issue due to the backlog of audit orders awaiting review.

The team proposed revising all forms and documents to change “audit” to “compliance review”, to address the confusion over the term “audit”. The term “audit” was used when a review focused primarily on the broker’s trust account.

The new compliance review schedule would have different standard review. Brokers with a trust account would be reviewed every three years, brokers without a trust account would be reviewed every six years, and new supervising brokers would be reviewed one year after they open a new office or assume responsibility for an existing office.

Several changes were proposed if violations were noted on a compliance review. The team proposed a shift from monetary fines to compliance directives for non-egregious violations. The compliance directive would require the licensee to submit a corrective action plan detailing how the licensee will comply with the violated statute or regulation moving forward. A follow-up review will be conducted of the broker’s records one year after the directive is received. If the broker is complying with the corrective action plan and the violations are no longer present, they will move to the standard compliance review schedule. Licensees who have violations on follow-up reviews and those with egregious violations will be subject to monetary fines and other discipline as deemed appropriate by the Commission’s member who serves on the I-Team.

The Commission approved the changes by general consensus.

Mr. Vaught recessed the KOMA meeting at 11:43 a.m.
Mr. Vaught reconvened the KOMA meeting at 11:50 a.m.

Review of Agency Forms

Ms. Alkire presented draft updates to sample forms provided on the Commission website.

Update on Regulation of Title Companies

Ms. Alkire presented information regarding the regulation of title companies in Kansas in response to questions by the Commissioners about escrow accounts.

Licensee, Education and Exam Report

Ms. White informed the Commission the number of licensees as of March 1, 2017 was 15,082. Since this time last year, this is a gain of 800.

Staff approved nine continuing education courses in February.

In February, there were 307 exams taken with an overall pass rate of 66%. There were 25 broker exams with a pass rate of 72% and 282 salesperson exams with a pass rate of 66%. This is down a few points, but a larger pool than normal took the salesperson exam, also the general portion of the exam was revised effective February 1, 2017. Five brokers and 61 salespersons tested by waiver for equivalent requirements,

In FY2017, there have been 1,906 exams administered and an overall pass rate of 67%. 25 brokers and 312 salespersons tested by waiver for equivalent requirements, brokers had a 100% pass rate and salespersons had an 87% pass rate.

Staff will be hosting a webinar on March 27, 2017 with the schools to review the proposed education regulations and provide an overview of the requirements to upload education certifications to the new licensing system.

Director's Report

FY2017 real estate fee fund receipts are \$728,888. This is 1% above estimates. FY2017 expenditures, excluding encumbrances are \$658,123. This is 3% or \$31,000 less than estimated. This is mostly due to about \$25,000 in one time capital expenses that have yet to occur this fiscal year.

The Commission fee fund balance was \$468,201; this is up \$19,500 from July 1, 2016. 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 \$79,515, which is 2% over estimates. The Real Estate Recovery Fund receipts were \$21,000 and the balance of the fund was at \$260,974.

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

There has been no movement on Senate Bill 76 which relaxed occupational licensing requirements for military family members and low-income individuals. The end of the regular session is April 7, 2017, and they will return at the beginning of May to complete the session, but it doesn't appear there will be any further action this session.

The public hearing on proposed regulations defining rebates and repealing certain advertising requirements will be held at the June 19, 2017 meeting.

Mr. Wisner provided a review of the current status of active legal files. There are currently 323 active files.

Mr. Wisner reviewed a letter from Kelly Adams from Coldwell Banker, a broker out of Manhattan. He wanted to voice his opinion that a gift card is not "cash equivalent" in reference to the pending regulation definition of rebate.

Adjournment

Mr. Vaught adjourned the meeting at 1:13 p.m.