

MINUTES OF MEETING

Kansas Real Estate Commission

April 9, 2015

The Kansas Real Estate Commission held its regular meeting on Thursday April 9, 2015 at 9:00 a.m. at Three Townsite Plaza, Suite 200, 120 SE 6th Avenue, Topeka, Kansas.

Commissioners Present:

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

Staff Present:

Erik Wisner, Executive Director
Kelly White, Director of Licensing and Education
David Pierce, Director of Enforcement
Sam Blasi, Law Clerk
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel Present:

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

Call to Order

Ms. Wenger called the KOMA meeting to order at 9:04 a.m.

Approval of the Minutes of the March 12, 2015 Meeting

Motion was made by Mr. Wuertz, seconded by Mr. Vaught to approve the minutes from the March 9, 2015 Meeting with corrections. Motion carried unanimously.

Ms. Wenger recessed the KOMA meeting at 9:07 a.m. for KAPA Proceedings.

Conference Hearing in the Matter of Kieonne Arrington, Docket No. 15-5372

Ms. Wenger reconvened the KOMA meeting at 10:27 a.m.

I-Team Report

Report by Ms. Mendoza and Mr. Wisner. I-Team is continuing to work on the best way to pursue information needed during investigations. The investigation process has changed from three written inquires for information to the respondent to one written inquiry followed by a telephone call to the respondent. If contact is made via the telephone call it will be memorialized by the

staff member to the respondent by email (unless they prefer US mail). If no response is received after the second contact attempt, I-Team will proceed to discipline for failure to respond.

The team is also creating a comprehensive index of all violations. This will combine statutes, rules and regulations and provide standard discipline procedures (warning letters, fines etc.) for each violation. It will then be presented to the Commission for review. They would like to look at simplifying the language to increase comprehension for licensees and the public.

Ms. Mendoza reported settlement of an outstanding fine from a disciplinary case. An agreement was reached with the Respondent for payments over the next year.

Ms. Wenger declared a break at 10:40 a.m.

Ms. Wenger reconvened the meeting at 10:50 a.m.

Discussion regarding amending K.A.R. 86-1-19 and K.A.R. 86-3-15

The Commission reviewed proposals to amend the type of misdemeanor offenses that should be forwarded to the commission for review and if diversions should be considered. Commission members requested clarity as the regulations currently reference any misdemeanor offense reflecting licensee's honesty, integrity, trustworthiness and competence. It was the consensus of the Commission to have Ms. Fertig put something in writing for discussion purposes, including examples. Commission staff will also review cases to determine what types of offenses are most often reported to the commission...

Discussion regarding amending K.A.R. 86-1-5

The Commission reviewed proposed fee changes due to the passage of SB 108. The bill becomes effective July 1, 2015. Every \$5.00 increase to the broker fee generates \$8,000 in revenue and \$5.00 to the salesperson fee generates \$25,000. The amount of the increase and the timing were discussed. The possibility of reducing or eliminating other subsidiary fees was also discussed. Mr. Wisner will review multiple factors to determine the best start date would be operationally. Ms. Fertig will work on drafting the regulation.

Legislative Update

Senate Bill 108 was signed by Governor Brownback on April 7, 2015. It becomes effective July 1, 2015. The budget has not passed at this point. Currently, the Commission is subject to an expenditure limitation. The Commission original requested an additional \$116,000. Due to shifting needs, Mr. Wisner believes this could be reduced to approximately \$76,000. The Legislature will review increasing the expenditure limitation during the veto session. The Commission original requested an additional \$116,000. Due to shifting needs, Mr. Wisner believes this could be reduced to approximately \$76,000.

Mr. Wuertz moved to extend a thank you to the Legislature for passing SB 108. This was seconded by Mr. Vaught. Motion carried unanimously. Commissioner signed a letter thanking the Governor and his staff for assistance in passing the legislation

Budget Report

Both original applications and renewals of salespersons are trending up. Original and renewals for brokers are trending down. The first information technology expenditure was made out of

the recovery fund in March. There will be continued expenditures out of the recovery fund in FY 2015 in order to upgrade IT infrastructure and electronic records management. In FY 2016, the Commission doesn't have the same ability to spend out of the Recovery Fund.

The Commission is currently 75% of the way through the year and has spent 59% of the appropriated amount. Overall the Commission's budget is in good shape and could have expenditures \$100,000 under the FY 15 appropriated amount.

Mr. Wisner requested permission to attend the ARELLO Midwest Area Conference June 5 and 6 in Little Rock, Arkansas.

Mr. Wuertz moves to approve Mr. Wisner's request, motion is seconded by Mr. Vaught. Motion carried unanimously.

IT Report

The Commission reviewed the quote from System Automation. The quote to implement the MyLicense Office application for automated licensing services was \$244,000. This does not include costs related to data conversion and project management. OITS can handle these but it would cost an additional \$40,000. This brings the total up to \$284,000. Mr. Wisner recommended not proceeding with the System Automation proposal at this time.

Mr. Wisner reported the server room is not secure or properly controlled for temperature. OITS has proposed locating the new servers in their data center. In order for that to occur, the Commission will need to be part of their user community. This will increase the monthly OITS user fees but should see increased bandwidth speed and full access to their professional services support.

Director's Report

Mr. Wisner informed the commission that the application for new licensees currently asks if the applicant is a U.S. citizen, if the answer is no, the applicant must supply additional documentation. There is nothing in the statute that says an applicant must be a U.S. citizen therefore if an applicant challenges the need to provide supporting documentation the Commission has no ability to deny the applicant a license. The Commission cannot deny a license based on citizenship. The Commission directed staff that if an applicant answers no on the application, no follow up is necessary and the question will be removed the next time the application form is updated.

The broker supervision taskforce is now complete. Mr. Wuertz, Mr. Schlosser, Ms. Fertig, Mr. Pierce and Mr. Wisner will be on the taskforce, the Association of Realtors has nominated Cathy Copeland. Ms. Fertig will work with Mr. Wisner to establish an agenda for the first meeting.

Licensee, Education and Exam Report

Ms. White informed the commission there are currently 13,914 licensees, which is the highest count since 2013.

The Commission has approved a new school, "At Your Pace" and several new courses from Kansas Association of Realtors, McKissock, PenFed Realty, The CE Shop and Van Education. The Commission denied a course from McKissock, "A Day in the Life of a Buyer Agent".

Mr. Wisner mentioned other commissions allow for attendance at Commission Meetings to count towards continuing education credits. The commissioners discussed potential issues that may arise related to competition with industry who is the main provider of continuing education.

Mr. Wuertz moved to recess into executive session for 5 minutes to discuss non-elected personnel in order to protect the privacy of the parties involved, and that Mr. Wisner and Sarah Fertig join in the session. We will reconvene the open meeting in this same location at 12:54 p.m.

Executive Session to Discuss a Personnel Matter

Ms. Wenger reconvened the KOMA meeting at 12:55 p.m.

The Commission discussed possible changes to the Commission schedule. The Commission meeting currently scheduled for May 14, 2015 will remain the same. The Commission will look at moving the meeting to the third Monday or the fourth Thursday of the month.

The Commission would like to thank Mr. Wisner for his work on the legislative updates.

The Commission would like to recognize the great job Ms. White did during her time as interim director.

Adjournment

Sue Wenger adjourned the meeting at 1:07 p.m.

Upcoming Commission Meeting Dates:

May 14, 2015—In-Person Meeting