

MINUTES OF THE MEETING
Kansas Real Estate Commission
October 10, 2017

The Kansas Real Estate Commission held its regular meeting on Tuesday, October 10, 2017, at 12:35 p.m. at Jayhawk Tower, 700 S.W. Jackson Street, Suite 404, Topeka, Kansas 66603.

Commissioners Present:

Bryon Schlosser, Chairperson
Joe Vaught, 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
Tom Nanney, Assistant Attorney General

Members of the Public:

Mark Baker
William Sneed
Patrick Vogelsberg
C.B. Starks
Larry Lloyd

Call to Order

Mr. Schlosser called the meeting to order at 12:35 p.m.

Approval of the Minutes of the August 28, 2017 Meeting

Motion was made by Mr. Wuertz, seconded by Mr. Vaught, to approve the minutes from the August 28, 2017 meeting. Motion carried unanimously.

Mr. Schlosser recessed the KOMA meeting at 12:35 p.m.

Mr. Schlosser reconvened the KOMA meeting at 1:08 p.m.

Conference Hearing of Grant Hartwig, Docket No. 18-6477

Mr. Schlosser recessed the KOMA meeting at 2:05 p.m.
Mr. Schlosser reconvened the KOMA meeting at 2:23 p.m.

Conference Hearing of Casey Andre, Docket No. 18-6479

Conference Hearing of Penny Landis, Docket No. 17-6265

Mr. Schlosser recessed the KOMA meeting at 3:05 p.m.
Mr. Schlosser reconvened the KOMA meeting at 3:17 p.m.

Attorney-Client Executive Session

Mr. Vaught moved the Commission enter into executive session for consultation with counsel regarding potential litigation, seconded by Ms. O'Brien. The meeting was to reconvene in 15 minutes.

The Commission entered executive session at 3:20 p.m.
The meeting reconvened at 3:36 p.m.

Possible reconsideration of K.A.R. 86-3-32 (Rebates)

Ms. Wenger moved to indefinitely table the regulation and authorize the Executive Director to explore a legislative option, seconded by Mr. Wuertz. Motion carried unanimously.

Reconsideration of sample brokerage relationship disclosure and transaction broker addendum forms and approval of implementation date for KAR 86-3-26, 86-3-27 and 86-3-28

The Attorney General's office requested some technical changes to the language in the regulations. These additions require the Commission's approval. Mr. Wisner also recommended removing the effective day of January 1, 2018 and have them go into effect upon publication in the Kansas registrar.

Mr. Wuertz moved to approve the changes recommended by the Attorney General's office, and to add the language "actually known to the agent" to the sixth bullet point under an Agent's duties in the sample brokerage relationship disclosure, seconded by Mr. Vaught. Motion carried unanimously.

Licensee, Education and Exam Report

Ms. White informed the Commission there were 15,602 licensees in September. That is down 24 from August. There were 15,774 licensees in October, this is up by 172 since September. There were 14,913 licensees one year ago, a difference of 861.

Staff approved two pre-license courses, one mandatory broker course and 11 elective courses for August. Staff approved two mandatory courses and six elective courses for September.

In August, there were 328 exams taken with an overall pass rate of 62%. There were 22 broker exams with a pass rate of 91%, and 306 salesperson exams with a pass rate of 60%. Three brokers and 53 salespersons tested by waiver for equivalent requirements.

In September, there were 271 exams taken with an overall pass rate of 65%. There were 28 broker exams with a pass rate of 75%, and 243 salesperson exams with a pass rate of 64%. Six brokers and 34 salespersons tested by waiver for equivalent requirements.

In FY2018, there were 843 exams administered with an overall pass rate of 62%. 11 brokers and 117 salespersons tested by equivalent requirements, brokers had a 100% pass rate, and salespersons had an 83% pass rate.

The examination provider, Pearson Vue, met with subject matter experts to review the cut score for the salesperson and broker exams. The cut score is number of questions that a minimally competent candidate for licensure should get right on the examination. The current cut score results in a 79% pass rate for salespersons and a 96% pass rate for brokers. The last standard setting for Kansas was prior to 1995.

Based on the opinions of the subject matter experts, the legally defensible range for cut scores should result in pass rate between 39% to 91% for the salesperson examination and 75% to 86% for the broker examination. The current cut score for the broker examination does not fall within the legally defensible range.

Mr. Wuertz made a motion to move the cut score to a projected 86% pass rate for brokers to bring it into the legally defensible range. Ms. Wenger seconded the motion. Motion carried unanimously.

Staff has been working with the schools over the last few months to upload continuing education hours through an ftp server to prepare for integration with the new MLO database. It has been going well overall.

Director's Report

FY2018 revenues and expenditures will be provided in the November Director's Report.

Mr. Wisner provided an update on the online licensing system. Currently, the developers are working on backend processes to allow for licensees to deactivate licenses along with completed processes for renewal and demographic changes. Education providers have already implemented submission of course rosters via FTP site. The automated process for original license applications and transfers is currently on hold. The go live date is set for December 6, 2017.

Regulation update, the Attorney General's office required several technical changes to the proposed education regulations prior to approval. We will need to resubmit the regulations with these changes. We will hold pending the outcome of the broker experience task force.

The Broker Experience Taskforce created at the August 29, 2017 Commission Meeting has now has received all appointed members. They include Jon Fort, Marion Hawks, Jeff Vaught, Dwyn

Thidium, Chris Rost, Sue Wenger, Errol Wuertz, Kelly White, Erik Wisner and Sarah Fertig. This taskforce is charged with reviewing the education, experience and licensing requirements for brokers in Kansas.

Mr. Wisner provided an update on ARELLO issues. At least three states implemented policy/statue/regulation changes requiring licensees to renew online. There has been a great deal of discussion regarding broker supervision. Unlicensed activity is becoming a larger issue, especially with marketing through the internet. A copy of the ARELLO Law & Regulation Subcommittee's Report on Teams was provided.

Adjournment

Mr. Schlosser adjourned the meeting at 4:45 p.m.