

MINUTES OF THE MEETING
Kansas Real Estate Commission
February 18, 2019

The Kansas Real Estate Commission held its regular meeting on Monday, February 18, 2019, at 9:00 a.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:

Jane Weiler, Assistant Attorney General
Athena Andaya, Deputy Attorney General

Members of the Public:

Brad Barker
Patrick Vogelsburg
Kim Bischler
Brian Bischler
Tobin Newson
Trisha Alton
Deborah Sprague

Call to Order

Mr. Schlosser called the meeting to order at 9:00 a.m.

Approval of the Minutes of the December 17, 2018 Meeting

Mr. Vaught made the motion, seconded by Ms. Wenger, to approve the minutes from the December 17, 2018 meeting. Motion carried unanimously.

Conference Hearing of Robert Feder, Docket No. 19-7455

Licensee, Education and Exam Report

Ms. White reviewed the new Applicant Status Report as of February 5, 2019. The Commission has 277 pending applications (58 salesperson, 11 broker and 208 fingerprint-only files).

There is 16,550 licensees and 406 expired renewable licensees as of February 5, 2019.

Staff approved eight elective continuing education courses in December. Staff approved four prelicense education courses, one mandatory continuing education course and six elective continuing education courses in January.

In FY2019, Pearson administered 1,690 exams with an overall pass rate of 63%. 27 brokers and 261 salespersons tested by equivalent requirements. Brokers had a 63% pass rate, and salespersons had a 91% pass rate.

Ms. White provided the requirements to obtain a Missouri real estate license for salespersons and brokers. The Commission previously questioned the different licenses available in Missouri.

Ms. White presented a request from Career Education Systems (CES) to resume allowing CES to block seats for their students with Pearson. The Commission requested that Pearson discontinue the practice in 2018 due to concerns it might prohibit students from other schools from testing on their preferred date. CES students have encountered issues with being able to obtain a testing date within seven days of completing the prelicense course. Upon staff review it appears Pearson is not in compliance with the contract to have available test dates within seven days of the completion of the course for applicants. Commission staff will send a request to Pearson to provide a corrective action plan within ten days of the date of the letter.

Ms. White will instruct Pearson to update the survey questions administered after the exam to reflect the seven day requirement in the contract.

Compliance Report

Ms. Alkire reviewed the status of open legal cases. The oldest complaint pending review (non-litigation) is from May 21, 2018. The oldest disciplinary file pending staff review is from March 21, 2018. The oldest disciplinary file pending review by the attorney general's staff is from March 5, 2018.

In calendar year 2018, staff completed 391 compliance reviews. Staff contacted an additional 119 brokers but they had no records. There is currently a nine month turnaround time for compliance review results.

Ms. Alkire completed development of two modules for the disciplinary continuing education course. Ms. Alkire provided the broker supervision and BRRETA modules to the Commission for preliminary review. At this time, the Commission will offer this as a disciplinary course but may use it for other purposes in the future.

Mr. Schlosser recessed the KOMA meeting at 10:09 a.m.

Mr. Schlosser reconvened the KOMA meeting at 10:24 a.m.

Director's Report

Real estate fee fund receipts are \$726,388. This is 4% above estimates. Real estate fee fund expenditures for FY2019 are \$626,820. This is 2% or \$18,544 higher than estimated. The Commission paid several annual

expenses this FY including the annual maintenance fee for the licensing system (\$70,000) and the monumental building surcharge (\$9,500).

The real estate fee fund balance currently stands at \$854,654 up \$41,966 from July 1, 2018. Background investigation fee fund receipts for FY2019 are \$69,576 which is 3% lower than estimated. Real estate recovery fund receipts for FY2019 are \$75,005 and the balance in the fund is at \$335,951.

Mr. Wisner provided an update on Senate Bill 42. SB 42 amends the Kansas Real Estate Brokers' and Salespersons' License Act to provide a definition of a rebate. Mr. Schlosser provided testimony on behalf of the Commission. The Kansas Association of Realtors and USAA also presented testimony. USAA requested an amendment that specifically states their business model is a lawful act. Mr. Wisner does not believe this will advance out of committee without agreement of the parties on USAA's amendment. After discussion, the Commission will pursue suggesting the Legislature conduct an interim study of the issue.

Mr. Wisner provided an update on Senate Bill 60. SB 60 changes the education and experience requirements for applicants seeking a real estate broker's license. It includes several other changes related to licensing processes. Mr. Wisner provided testimony on behalf of the Commission. Kansas Association of Realtors provided testimony in support of the bill. The committee will work the bill on February 20, 2019.

Mr. Wisner presented a question to the Commission regarding open records requests. In 2017, the Commission approved publishing on the Commission website several reports providing demographic information related to current licensees and applicants. The Commission posted these reports to satisfy frequent open record requests. The Commission recently received a request to withhold this information based on concerns regarding identity theft. Mr. Wisner wanted to confirm the Commission wished to continue publishing the reports on the website. The Commission will continue with the reports and reconsider this topic at a later date if the Commission receives more comments.

Mr. Wisner provided an overview of the activities of the Commercial Real Estate Task Force. This task force reviewed current licensing and education requirements and other related industry issues impact commercial real estate licensees and recommend policy solutions to address those concerns. The Committee could not come to unanimous agreement on formal recommendations.

Mr. Wisner presented correspondence received from the Consumer Federation of America regarding improving consumer understanding of the role of agents. He will send a response.

Adjournment

Mr. Schlosser adjourned the meeting at 11:48 a.m.

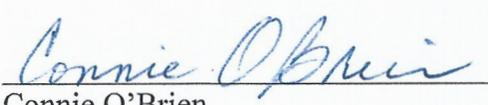
Attest: April 24, 2019


Bryon Schlosser, Chairperson


Joe Vaught, Vice-Chairperson


Errol Wuertz


Sue Wenger


Connie O'Brien