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COMMISSIONERS
Lois Ann Disponett, Chair
Billy Joe Beckham, Smiths Grove
Shirley W. Wiseman, Lexington
Steve K. Cline, Bowling Green
James G. Simpson, Dry Ridge
Larry D. Disney, Winchester
Joy E. Amann, Ludlow

John Hardest, General Counsel
Kentucky Real Estate Authority

Kentucky Real Estate Commission
MEETING MINUTES
May 21, 2020

*** This meeting occurred via Zoom Teleconferencing, pursuant to KRS 61.826***

Commission Members Present

Commissioner Chair, Lois Ann Disponett
Commissioner Joy Amann
Commissioner Larry Disney
Commissioner James Simpson

Commissioner Steve Cline
Commissioner Shirley Wiseman
Commissioner Billy Beckham

KREA Staff

Jacob Walbourn, Interim Executive Director
John Hardesty, General Counsel
Maryellen Mullikin, Administrative/Licensing Coordinator
Hannah Carlin, Education Coordinator
Michael Spann, Investigator
Shannon Buzard, Executive Administrative Secretary
Nathan Burton, Executive Administrative Secretary

Guests Present

Rhonda Richardson
Dennis Stilger
Virginia Lawson
Steve Stephenson
Renee Rogers
Richard Wilson
Joyce Sterling
Todd Thornton
Judy Ball
Doug Myers
Al Blevins
Janie Wilson
Paul Ogden
Lester Sanders
Christine Morgan
Alex Gaddis
Sumei Zhang

Margie Harper
Anetha Sanford
Stephanie Gilezan
Sandy Newell
Richard Watson
Lisa Stephenson
Matt Shown
Billy R Caudill
Frank Durso
Mike Wheatley
Sue Ann Collins
Peggy Smith
Jen Swendiman
Colleen Dwyer
Greg Crase
Marcie Estep
Justin Landon

RIP Phillips
Lisa Kalor
Pam Featherstone
Karen Gross
Robin Roseberry
Nicole Knudtson
Linda Flickenger
Steve Dowell
Chris Hunt
Kelly McIntosh
Kristi Gooch
Cindy Rice Grissom
Hathlyn Chapman
Todd Back
Jim Demai
Lisa Kayler

Call to Order and Guest Welcome

The Kentucky Real Estate Commission meeting was called to order through video teleconference by Commission Chair, Lois Ann Disponett, at 11:03 a.m. on May 21, 2020. Roll call was taken and a quorum was present. Guests in attendance were welcomed and introductions of guests, staff, and commissioners were made.

Approval of Meeting Minutes

Commissioner Wiseman made a motion to approve the April 16, 2020 Commission Meeting Minutes. Commissioner Beckham seconded the motion. With all in favor, the motion carried.

Education and Licensing Report

May 2020 Continuing Education Applications were reviewed for compliance with 201 KAR 11:170 and recommended to the Commission for approval by Hannah Carlin. Commissioner Beckham made a motion to approve the list of applications. Commissioner Simpson seconded the motion. Commissioner Disney abstained from the motion. Having all in favor, motion carried.

Ms. Carlin presented the attached May **2019 education and licensing statistics** to the Commission. No action was taken.

Ms. Carlin presented the 2020 **renewal hardship requests** to the full Commission for review and consideration of waiving the \$200 fine with the following actions be taken by the Commission:

1. **177784-** Commissioner Cline motioned to deny. Commissioner Disney 2nd. Having all in favor, motion carried.
2. **179863-** Commissioner Cline motioned to deny. Commissioner Simpson 2nd. Having all in favor, motion carried.
3. **180989-** Commissioner Cline motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.
4. **180993-** Commissioner Wiseman motioned to deny. Commissioner Simpson 2nd. Having all in favor, motion carried.
5. **182000-** Commissioner Cline motioned to deny. Commissioner Wiseman 2nd. Having all in favor, motion carried.
6. **185719-** Commissioner Wiseman motioned to deny. Commissioner Cline 2nd. Having all in favor, motion carried.
7. **191407-** Commissioner Simpson motioned to deny. Commissioner Cline 2nd. Having all in favor, motion carried.
8. **192904-** Commissioner Wiseman motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.
9. **199185-** Commissioner Cline motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.
10. **204522-** Commissioner Wiseman motioned to deny. Commissioner Disney 2nd. Having all in favor, motion carried.
11. **210319-** Commissioner Simpson motioned to deny. Commissioner Cline 2nd. Having all in favor, motion carried.
12. **210759-** Commissioner Cline motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.
13. **210965-** Commissioner Cline motioned to deny. Commissioner Simpson 2nd. Having all in favor, motion carried.

14. **214409-** Commissioner Simpson motioned to deny. Commissioner Cline 2nd. Having all in favor, motion carried.
15. **216998-** Commissioner Cline motioned to refund the fine. Commissioner Simpson 2nd. Commissioner Wiseman objected to the motion. Having a majority of quorum in favor, motion carried.
16. **217874-** Commissioner Cline motioned to deny. Commissioner Simpson 2nd. Having all in favor, motion carried.
17. **220083-** Commissioner Cline motioned to deny. Commissioner Simpson 2nd. Having all in favor, motion carried.
18. **221888-** Commissioner Simpson motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.
19. **259974-** Commissioner Simpson motioned to deny. Commissioner Beckham 2nd. Having all in favor, motion carried.

KREC Education Grants

Ms. Carlin presented Program Director, Sumei Zhang of University of Louisville memo to the full Commission for a Real Estate Course grant application request, described in the attached U of L grant letter, set to expire June 30, 2020 for review and approval. Ms. Zhang explained the two options to the Commission that included the implementation of new online course procedures as a result of Covid-19 or postponement of the course to August 2020. Commissioner Disney made a motion to approve plan 2 of the request (offering the course online.) Commissioner Beckham seconded the motion. Having all in favor, the motion carried.

Interim Executive Director Comments

Mr. Jacob Walbourn gave an official welcome introduction to the Commission for the new incoming KREC General Counsel, Mr. John Hardesty. Mr. Walbourn thanked Mr. Chris Hunt for his hard work and efforts while filling in and assisting the KREC with legal affairs. Mr. Walbourn also gave a formal introduction and welcome to the new incoming KREC Executive Director, Robert Astorino. Mr. Walbourn offered much gratitude and appreciation towards the Commission and staff for all their hard work while announcing he is stepping aside to return to his current role as Deputy General Counsel for the PPC.

Mr. Walbourn gave a **Covid-19 update** regarding returning to work and transitioning from “Healthy at Home” to “Healthy at Work”. He said again, patience is key while KREC staff continues working 100% remotely from home offices, and periodically picking up mail each week. With regard to “open houses” Mr. Walbourn clarified the KREC does not have jurisdiction over holding “open houses” and the memorandum stating “no open houses” on the KREC website was issued as direction of the Kentucky Governor during Covid-19. He also announced that as of May 22, 2020, “open houses” may resume again but with limited guidelines and restrictions that will be posted on the KREC website and also can be reviewed on the “Healthy at Work” website. While summarizing the legal guidelines and restrictions, Mr. Walbourn followed up by issuing a firm caution to the real estate industry to not only follow the limited restrictions, but to also do their due diligence regarding researching their liabilities as the KREC cannot give legal advice. Lastly, realtors are eligible for unemployment if you are a 1099 employee with the contact person for unemployment being Katie Adams.

Public Comments

Cindy Rice Grissom offered a brief summary regarding how liability works regarding covid-19.

The liability coverage cannot be determined hypothetically, however it can be determined on a case by case basis with some of the examples relating to negligence, mistakes leading to harm, contract error, inaccurate advice. Should anyone have more specific questions regarding insurance coverage, please contact Cindy at the Rice Insurance office.

The public audience in attendance participated with brief comments, questions, and suggestions with topics relating to the new regulations, dual agency, advertising and education.

Committee Reports

ARC Committee report is deferred to end of this meeting after the executive session. There was no Education Committee report for this meeting.

Commissioner Wiseman read the Property Management Committee report she compiled, which is attached. Regarding the Committee's findings of other states requirements for property management. Commissioner Wiseman recommend the Commission consider not having a separate property management license based on the report.

Commissioner Disney read the report of the Complaint Review Committee, and the Committee's recommended action on each Complaint, to be further discussed in Executive Session. The Committee's recommendations are included below.

Forms

The Forms Task Force participated in extensive discussion regarding the following forms: Consumer Guide to Agency Relationships, Agency Consent Disclosure Statement (buyer and seller) and Sellers Disclosure of Property Condition. General Counsel Hardesty thanked Commissioners Disney and Chair Disponett, and attendees Virginia Lawson and Dennis Stilger of the Forms Task Force, for their hard work and input helping review the forms and make recommended revision.

Commissioner Simpson made a motion to allow the current Sellers Disclosure of Property Condition form passed in 2019 that is going into effect as of June 1, 2020 to become effective and be enforced as it normally would be. Commissioner Wiseman 2nd motion. Commissioner Disney opposed the motion. Having a majority of the quorum in favor, motion carried.

Commissioner Disney motioned the Commission delay enforcement of and not take disciplinary action against licensees not using the following forms going into effect June 1, 2020, until or unless amended through the regulatory process, or until the Commission votes to begin enforcement of them: A Guide to Agency Relationships, Agency Consent Agreement (Buyer), and Agency Consent Agreement (Seller). Commissioner Disponett 2nd the motion. Commissioner Simpson opposed the motion. Having a majority of the Commissioners in favor, motion carried. It was noted during discussion of the motion that the Commission cannot delay the date on which any of the new forms become effective, and if licensees wish to be in full compliance with KREC regulations, they are advised to use the new version of the three forms for which the Commission voted to delay enforcement.

Following lengthy discussion, the Commissioners did not agree on recommended changes to the three agency forms or the Sellers Disclosure of Property Condition form. General Counsel requested that before the Commission further discusses changes to the forms, each Commissioner send to General Counsel an explanation of their preferred changes to the forms,

which may include redlined version of the current forms, redlined versions of old forms, or any other proposals the Commissioners wish to make.

Advertising Regulation Questions

General Counsel recommended the Commission not defer enactment or enforcement of the new advertising regulation. He also discussed multiple questions received by his office from licensees regarding the requirements of the new advertising regulation. He provided recommendations to the Commission on answers to these questions, and the Commissioners agreed with the recommendations.

The Commissioners also discussed the inclusion of the phrases “Real Estate” or “Realty” in a team or group name. Due to the risk that inclusion of such terms in those names would be misleading, the Commissioners discussed whether to pass a resolution that such terms in a team or group name are per se misleading and constitute a violation of 201 KAR 11:105. Commissioner Cline made a motion to resolve that the use of the phrases “Real Estate” or “Realty” in a team or group name are per se misleading and will constitute a violation of 201 KAR 11:105. Commissioner Wiseman 2nd motion. Having all in favor, motion carried.

Executive Session Legal Matters and Case Deliberations

Commissioner Disponett made a motion to enter executive session, pursuant to KRS 61.810(1)(c) and (j), and KRS 61.815 to discuss proposed or pending litigation and deliberate on individual adjudications and to discuss 3 new applications and the following case recommendations offered by Commissioner Disney:

- 18-C-053, approve the recovery fund agreed order
- 18-C-054, approve the agreed order for additional required education
- 19-C-080 & 20-C-019, approve emergency order to suspend license
- 16-INF-0021, for dismissal
- 17-C-0021, for dismissal
- 18-C-040, for dismissal
- 18-C-062, for further investigation
- 18-C-064, for dismissal
- 18-C-078, for dismissal
- 18-C-080, for dismissal
- 18-C-081, for dismissal
- 18-C-083, for dismissal
- 18-C-088, for dismissal
- 18-C-094, for dismissal
- 18-C-095, for dismissal
- 19-C-030, for dismissal
- 19-C-066, for dismissal
- 19-C-084, for dismissal

Commissioner Beckham seconded the motion and the Commission entered into closed session discussion.

Reconvene Open Session and Committee Recommendations

Commissioner Simpson motioned for the Commission to come out of executive session and Commissioner Beckham 2nd the motion. Commission Chair Disponett resumed the full Commission meeting at 5:39 p.m. and welcomed everyone back attending the teleconference Commission meeting.

The following actions were taken per Licensing Coordinator, Maryellen Mullikin’ s introductions of 3 new applicants during the executive session:

Commissioner Simpson made a motion to approve one new broker applicant for licensure

(Durso). Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.

Commissioner Disney motioned to defer one sales associate applicant (Caudill) to the next Commission meeting's Executive Session because the principal broker was not available at the time the matter was discussed. Commissioner Beckham 2nd the motion. Having all in favor, motion carried.

Commissioner Wiseman made a motion to permit one broker applicant (Hardin) to take 2nd failed portion of exam as soon as an exam registration date becomes available. Commissioner Simpson 2nd the motion. Having all in favor, motion carried.

The Complaint Review Committee presented the recommended disposition of the following cases to the full Commission in the following manners:

- 18-C-053, approve the recovery fun agreed order
- 18-C-054, approve the agreed order for additional required education
- 19-C-080 & 20-C-019, approve emergency order to suspend license
- 16-INF-0021, for dismissal
- 17-C-0021, for dismissal
- 18-C-040, for dismissal
- 18-C-062, for further investigation
- 18-C-064, for dismissal
- 18-C-078, for dismissal
- 18-C-080, for dismissal
- 18-C-081, for dismissal
- 18-C-083, for dismissal
- 18-C-088, for dismissal
- 18-C-094, for dismissal
- 18-C-095, for dismissal
- 19-C-030, for dismissal
- 19-C-066, for dismissal
- 19-C-084, for dismissal

Commissioner Beckham motioned to adopt the Complaint Review Committee recommendations and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.

New Business

The Commission was in agreement to encourage more online course approvals in response to Covid-19.

Approval Per Diem

Commissioner Simpson made a motion to approve the per diem for the month of May. Because it was teleconferenced, there were no travel expenses. Commissioner Wiseman 2nd the motion. Having all in favor, the motion carried.

Meeting Adjournment

Commission Chair Disponett made a motion to cancel the previously scheduled Commission meeting location in Pikeville, with the new location to be held with KREA in a teleconference meeting on June 18, at 9:00 AM. Commissioner Cline 2nd the motion. Having all in favor, motion carried.

Watch for a link for another Zoom meeting. Commissioner Simpson made a motion to adjourn the meeting. Commissioner Beckham seconded. Having all favor, the motion carried and the meeting adjourned at 5:49 PM.



Approved 6/18/20