

Andy Beshear
Governor

Kerry B. Harvey, Secretary
Public Protection Cabinet

Robert Laurence Astorino
Executive Director

John L. Hardesty
General Counsel



Kentucky Real Estate Authority
Mayo-Underwood Building
500 Mero Street, 2NE09
Frankfort, Kentucky 40601
Telephone: (502) 564-7760
KREC.KY.GOV

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

**Kentucky Real Estate Commission
(KREC)
MEETING MINUTES
June 18, 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

Robert Laurence Astorino,
Executive Director
John Hardesty, General Counsel
Hannah Carlin, Education Coordinator
Michael Spann, Investigator

Shannon Buzard,
Executive Administrative Secretary
Angie Reynolds,
Administrative Specialist III

Guests Present

Al Blevins
Alex Gaddis
Alicia Miller
Allie VanNamen
Ann Ruemler
Austyn Cheatham
Becky Ernst
Beth Bell Brown
Billy R Caudill
Brain Lane
Brenda Rue
Calvin Lawson
Christel Long
Crystal Gail
Dennis Stilger
Diana Fields
Diana Scott
Diana Sisk
Donna Sullivan
Edwin Huntley
Emily Garcia
Gary Wilson
Jami Caulby-Roberts
Janie Wilson
Jay Wilson
Jeanie LaMare
Jeff Smith
Jim DeMaio
Jim Gambill
Joeawahara
Joe Delaware
John Billings
Joyce Sterling
Judy Bell
Justin Landor
Kassie Bennett

Kitty Lane
Kristy Gooch
Lament Breland
Lee Ann Graham
Lester Sanders
Linda Cecil
Linda Flickenger
Linda Kaylor
Linda Townzen
Lisa Stephenson
Margie Harper
Maria Gras
Mark Whittamore
Matt Shown
Myrna Downing
Nicole Knudtson
Pam Featherstone
Peggy Smith

Rhonda Richardson
 Richard Watson
 Richard Wilson
 Rip Phillips
 Robin Jones
 Sallie Davidson
 Shannon Dodd

Shannon Acres
 Shevawn Akers
 Stephanie Kileman
 Steve Lewis
 Steve Stephenson
 Twilla Williams
 Virginia Lawson

Violet Robinson
 Whitney Pannell
 770-630-9799
 859-433-9951
 875-489-4356
 859-312-5087
 270-315-9810

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 9:04 a.m. on June 18th, 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 Disney made a motion to approve the **May 21st, 2020** Commission Meeting Minutes. Commissioner Amann seconded the motion. With all in favor, the motion carried.

Introduction to Executive Director Robert L. Astorino

Commission Chair, Lois Ann Disponett made the introduction of the new Executive Director Robert L. Astorino. Director Astorino introduced himself and offered much gratitude and appreciation towards the Commission and staff for all their hard work. Director Astorino discussed his previous work experience prior to coming to KREC. He explained that he saw his mission as director as three primary functions; 1. Provide assistance to the Boards we serve, 2. Provide support to our licensees', 3. Protect and service the consumers of the Commonwealth as representatives of the Public Protection Cabinet. Director Astorino wants every customer's interaction with the KRE employees be a positive experience.

Education and Licensing Report

June 2020 Continuing Education Applications were reviewed for compliance with 201 KAR 11:170 and recommended to the Commission for approval by Hannah Carlin.

1. 2020 Sales Associate Pre-license

Century Real Estate School

Course Name- Course Number	Instructors	Pre-license Hours
KY RE Principles v1.0 (23107)	Lucy Brooks, Steve Medved	96

2. 2020 Continuing Education Courses

Kentucky Realtor Institute

Course Name- Course Number	Instructors	CE Hours
Kentucky Core Course (22193)	Sandy Huwel, Art Reed, Dennis Stilger	6 law

3. 2020 Continuing Education and Post-license Education Courses

Lexington Bluegrass Association of Realtors

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Building A Successful Foundation in Real Estate with Rapattoni MLS Training (21054)	Debbie Hamilton	3 elective	3 technology and data security
Safety in the Real Estate World (21053)	Greg Epley	3 elective	3 elective

4. 2020 Broker Curriculum Courses

Century Real Estate School

Course Name- Course Number	Instructors	Broker Hours
Brokerage Management (21961)	Lucy Brooks, Steve Medved	48

Commissioner Amann made a motion to approve the list of applications. Commissioner Cline seconded the motion. Commissioner Disney abstained from the motion. Remaining all in favor, motion carried.

Ms. Carlin presented the following **June 2020 Education and Licensing Statistics** to the Commission.

1. Licensing Statistics

As of May 14, 2020

Type	Active	Inactive	TOTAL
Sales Associate	10,914	5,489	16,403
Broker	3,966	777	4,743
TOTAL	14,880	6,266	21,146

New Licenses Issued in 2020 (by month)

Month	Sales Associate	Broker	Total
January	102	16	118
February	87	21	108
March	97	19	116
April	49	11	60
May	15	4	19
June			
July			
August			
September			
October			
November			
December			
TOTAL	350	71	421

Commissioner Amann asked Ms. Carlin to give a summary of how the testing centers were

doing now that they were starting to reopen. Ms. Carlin reported that Bowling Green Technical College, NexGen Aviation Center in Lexington, Maysville Community & Technical College, Somerset Community College, Mount Sterling and the Owensboro Testing Centers have all reopened in the month of June.

The University of Louisville and Jefferson Community College testing centers are set to open on July 2, 2020.

Western Kentucky Technical and Community College is set to open in August.

Due to Covid-19 compliance, the centers are limiting the amount of people that come in and take the exams. Eastern and Western Kentucky seem to in the most need as of right now.

Ms. Carlin reported that finger printing is currently only available through the local law enforcement agencies and their policies. Per statute 201 KAR 11: 210 Section 6 - the applicant may submit a criminal history affidavit if their finger prints are illegible. But they must also provide evidence of being finger printed at a state or local law enforcement agency, and a Kentucky Administrative Office of the Courts Fast Check Criminal Report (AOC). In addition, the applicant must also provide proof that an alternate request to the FBI for a records check based on their name and social security number has been conducted. Background checks need to be completed and submitted within 90 days of application submission.

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. **178457** - Commissioner Simpson motioned to deny. Commissioner Wiseman 2nd. Having all in favor, motion carried.
2. **180993** - Commissioner Disney motioned to approve the request for a refund. Commissioner Amann 2nd. Commissioner Cline objected to the motion. Having a majority of quorum in favor, motion failed. Motion denied.

Commissioner Amann noted that when emails come back as undeliverable the Administration must find an alternative way to contact the licensee to let them know.

Ms. Carlin reported that the current processing time for license applications is 12 to 15 business days. This is due to Covid-19 compliance and limited staff.

Executive Director Comments

Director Astorino gave a **Covid-19 update**, noting that the Cabinet Secretary has asked staff to continue to work remotely. Despite these challenges, Director Astorino felt that there are two areas that are *not* currently being impacted by Covid-19, one is responding to disciplinary complaints.

Director Astorino feels that General Counsel John Hardesty has proven to be an outstanding addition to KREC. Director Astorino, GL Hardesty, and Investigator Michael Spann, have been

working hard on the back log of complaints. Director Astorino plans to have a detailed status report prepared for the July meeting.

The other item currently *not* being impacted by Covid-19 is the phones. A new phone system has been put in to place that rolls a three tiered que as to assist with not missing calls. There were over a 100 calls back logged that have now been taken care of. Director Astorino is convinced that we can do more with less due to technology and the determination of our staff.

Covid-19 is challenging every member of the KRE staff. People are working in a way that they have never had to before. People are having to set-up and work from home. It is a whole different world just to try to connect with everyone at one time. Director Astorino has found in just two weeks that the KREA Staff has performed in an exemplary fashion. The Covid-19 impact of board meetings will be that they will have to be conducted remotely for the next few months.

Committee Reports

ARC Committee report was deferred to end of this meeting after the executive session.

There was no Education Committee report for this meeting.

Commissioner Cline 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 as follows:

- 18-C-14, for dismissal (withdrawn)
- 18-C-27, for dismissal
- 18-C-38, for dismissal (with caution)
- 18-C-49, for dismissal
- 18-C-57, for dismissal
- 18-C-63, for dismissal (withdrawn)
- 18-C-72, for dismissal (with caution)
- 18-C-75, for dismissal
- 18-C-82, for dismissal (with caution)
- 19-C-008, for dismissal
- 19-C-011, for dismissal
- 19-C-016 and 19-C-038,
 - Order for disciplinary hearing to revoke license of Respondent
 - Order to recovery fund hearing
 - Order for disciplinary hearing against Broker's to (1) suspend
- license for 30 days (Probated for one year); (2) \$1,000 fine; (3) 12 hours of CE.19-C-035, for dismissal
- 19-C-053, for dismissal
- 19-C-054, for dismissal
- 19-C-072, for dismissal
- 19-C-074, for dismissal
- 19-C-075, for dismissal
- *Note civil litigation settlement for future open record requests - (withdrawn)
- 19-C-076, for dismissal
- 19-C-078, for dismissal
- 19-C-079, for dismissal
- 19-C-082, for dismissal
- 20-C-017, for dismissal (withdrawn)

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 5 new applications and the following case recommendations offered by Commissioner Disney:

- 18-C-14
- 18-C-27
- 18-C-38
- 18-C-49
- 18-C-57
- 18-C-63
- 18-C-72
- 18-C-82
- 19-C-008
- 19-C-011
- 19-C-016 and 19-C-038
- 19-C-035
- 19-C-053
- 19-C-054
- 19-C-072
- 19-C-074
- 19-C-075
- 19-C-076
- 19-C-078
- 19-C-079
- 19-C-082
- 20-C-017

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

Reconvene Open Session and Committee Recommendations

Commissioner Wiseman motioned for the Commission to come out of executive session and Commissioner Amann 2nd the motion. Commission Chair Disponett resumed the full Commission meeting at 1:32 p.m. and welcomed everyone back attending the teleconference Commission meeting.

Applicant Review Committee

The Applicant Review Committee made the following recommendations to the full Commission:

1. Commissioner Amann motioned to approve Jyll Anderson to be issued a license and Commissioner Disney 2nd the motion. Having all in favor, motion carried.
2. Commissioner Simpson motioned to approve Billy Ray Caudill to be issued a license and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
3. Commissioner Amann motioned to approve Calvin Lawson to be issued a license and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
4. Commissioner Disney motioned to approve Austyn Cheatham to be issued a license and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
5. Commissioner Wiseman motioned to defer Edwin Huntley to the July meeting and Commissioner Simpson 2nd the motion. Having all in favor, motion carried.

Ms. Carlin wanted to make note to the recently approved licensees that their applications will be

processed Monday, June 22, 2020. That they and their principle broker will receive an email to let them know that they have been processed and are currently active.

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

- 18-C-14, for dismissal (withdrawn)
- 18-C-27, for dismissal
- 18-C-38, for dismissal (with caution)
- 18-C-49, for dismissal
- 18-C-57, for dismissal
- 18-C-63, for dismissal (withdrawn)
- 18-C-72, for dismissal (with caution)
- 18-C-75, for dismissal
- 18-C-82, for dismissal (with caution)
- 19-C-008, for dismissal
- 19-C-011, for dismissal
- 19-C-016 and 19-C-038,
 - Order for disciplinary hearing to revoke license of Respondent
 - Order to recovery fund hearing
 - Order for disciplinary hearing against Broker's to (1) suspend license for 30 days (Probated for one year); (2) \$1,000 fine; (3) 12 hours of CE.
- 19-C-035, for dismissal
- 19-C-053, for dismissal
- 19-C-054, for dismissal
- 19-C-072, for dismissal
- 19-C-074, for dismissal
- 19-C-075, for dismissal
- *Note civil litigation settlement for future open record requests - (withdrawn)
- 19-C-076, for dismissal
- 19-C-078, for dismissal
- 19-C-079, for dismissal
- 19-C-082, for dismissal
- 20-C-017, for dismissal (withdrawn)

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

Open Forum – Public Comments Only

Nathan Billing, an Attorney with Billings Law Firm located in Lexington, KY commented that he represents a growing group of realtors that have concerns regarding the new Advertising Regulations that just went into effect on Tuesday (June 16th). He notes that there are two other agenda items that could potentially affect those concerns. He has no formal resolutions at this time before the Commission other than wanting to introduce himself.

Jim DeMaio, commented that it has come to his attention that the changes to the Advertising and Conduct sections of the regulations have caused some issues. That the regulations states that a licensee shall not advertise a property for sale without written consent of the seller or owner of the property. The 'written consent' part is the issue. That there are classes currently being taught that discuss the difference between a listing agreement and written consent. That if a licensee were to enter into an "advertising contract" and publicly advertise an open house or help an owner with some advertising, that this distinction could become problematic. Because many of the licensees are realtors, this will cause some issues and questions with rules regarding LRS participation. Mr. DeMaio hoped that the Commission would discuss this issue early.

Legal Report

Forms Discussion – New forms were adopted that were going into effect, but the Commission voted in the May meeting to delay enforcement of the three agency forms: the ‘guide agency relationship’, the ‘agency consent agreement buyer’ and the ‘agency consent agreement seller’ forms until a later date. General Counsel Hardesty stated that these forms were officially adopted as part of the KREC regulations and that the forms have gone through the propagation process, they are LRC approved and are considered the present-day forms. General Counsel recommended that the Commission vote to enforce the three agency forms as they normally would have. That the delay be withdrawn and the forms go into effect as of September 1st, 2020. Commissioner Chair Disponett noted that this way the Commission can move forward, that there is something out there that can be used and if the Commission needs to revisit the forms at a later time, that they can do so.

At this time Commissioner Amann made a motion to begin the enforcement of the ‘guide agency relationship’, the ‘agency consent agreement buyer’ and the ‘agency consent agreement seller’ forms effective as of September 1st, 2020. Commissioner Simpson 2nd the motion. Having all in favor, motion carried.

Commissioner Amann stated that brokerages in the past have submitted with Commission’s approval their own version of these forms, even combining language when needed. She asked General Counsel if they would still be allowed to use the brokerage’s forms with Commission approval or just the new forms. General Counsel stated that it was he’s understanding that the new forms could not be altered, but only used as is and without substitution. If there is anything in the statute or regulations that allows a broker to submit different form for approval he is currently not aware.

Commissioner Amann asked about some forms discrepancies because she was not in the forms committee meeting. General Counsel stated that he was not involved or privy to the adoption of the regulations or the original formulation of the forms so he could not comment on what she was asking. However, he could look into it and report back to the Commission in July since the forms would not go into effect until September.

Commissioner Chair Disponett called for a vote at the end of the discussion, five Commission members voted ‘I’, Commissioner Cline voted ‘Nay’.

Commissioner Disney noted that at the May meeting he was the one to make the motion for the tabling to delay enforcement of the three agency forms: the ‘guide agency relationship’, the ‘agency consent agreement buyer’ and the ‘agency consent agreement seller’ forms until a later date and that he now understood the lengthy process of final getting approval.

General Counsel stated that he felt the forms were pretty clear and that it was in the best interest of the consumer and the licensees to have one set of unified forms for their use. That the Commission and General Counsel could begin the discussion of what revisions need to be made but still be able to move forward.

Legal Emails for Commission Consideration and Advertising Regulation Questions –

The new advertising regulations went into effect as of June 16th, 2020 and there has been a number of questions via email received. The Commission decided that they would table that discussion for right now.

Advertising Regulation Questions

During the May 21, 2020 meeting the Commission passed a resolution providing that a team or group name that includes the phrases “realty” or “real estate” will constitute a violation of 201 KAR 11:105(4)(3)(a) and will be considered misleading in violation of 201 KAR 11:105(5)(2).

Commissioner Disney made a motion to rescind the original motion as stated above effective immediately and the Commission will address and adjudicate on a case-by-case basis complaints and disciplinary actions regarding whether the contents of team and group names violate provisions of KRS Chapter 324 and/or 201 KAR Chapter 11. Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.

No discussion at this time. Commissioner Chair Disponett called for a vote, five Commission members voted ‘Y’, Commissioner Cline voted ‘Nay’.

Docket Update

General Counsel stated that there was quite a back log of cases but that they were being worked as expeditiously as possible. That legal team has been able to move a significant number of those cases. And it is their goal and priority to move forward and to have as many cases resolved as possible. We appreciate the patience of our complainers and respondents. If we haven’t gotten to their claims yet, we are working to do so.

Statewide Purchase Contract

General Counsel stated that he believes that this will require a regulator change to one section of the regulation that addresses the required contents of an offer to purchase, basically becoming the required contents of a purchase contract. He does have some concerns about a State Wide Purchase contract, but does have interest in starting a discussion among the Commission members regarding the need for one.

Commissioner Simpson stated he was familiar with Lexington’s and Louisville’s standardized forms but had to really read other’s form more closely. Contracts constantly come into the area that have to be looked at more closely as to protect the agent and the consumer. So a standardized statewide contract form that all realtors would be required to use, something that could have addendums added to as needed, doesn’t appear to have a downside to him. Commissioner Cline was in agreement with Commissioner Simpson.

General Counsel stated that he thought it would be valuable to allow open discussion concerning this topic in the next meeting. That it would be beneficial to hear input from the state industry and consumers before the Commission takes any firm action concerning this subject. To initiate a conversation regarding this topic.

Commissioner Simpson wanted to know the steps to get the ball rolling for the initial process. General Counsel recommended that they create a contract form that all the Commission members are in agreement with. In addition to getting comments from industry stake holders regarding anything that would need to be included or excluded. This a big undertaking and there maybe a variety of opinions on the subject. But once there is a contract form that the Commission are all in agreement with, there will need to be a legal analysis as to whether it is permissible to take such action. In addition, what changes to the regulation will need to be put into effect in order to adopt the form.

Commissioner Wiseman recommended asking KAR for input and Commissioner Amann agreed.

Commissioner Amann voiced concern over that there are various types of real estate practices. That in order to include all that the contract might be rather lengthy with a lot of irrelevant sections. That the form needs to be as un-cumbersome as possible. On the flip side of that, a standardized form cannot be silent on some issues that need to be addressed for the various practices different parts of the state. She asked that this be taken into consideration when discussing this process.

General Counsel commented that once there is a form agreed upon and voted on by the Commissioners, then we would have to go through the Administration Regulation Propagation process. Because this would be an amendment the regulations. We would have to propagate the change to the regulations and the contract. This would involve committee hearings and public comment hearing. This would all need to be included if the Commission chose to peruse that.

Commissioner Cline stated that other states have this in place. General Counsel commented that he had looked on various associations sights and could not find a state wide property contract that he could review, but he would continue to research it. He did agree with Commissioner Amann's comments regarding the various needs of the different regions of the state. That this maybe a difficult task to accomplish is a concise form. There will be so many different revisions based on the needs of the location of the user. People want the forms to be easy and concise.

Commissioner Simpson noted that in Northern KY they have every type of property imaginable, from residential, commercial, farm lands to wineries. He asked that in the next Commission meeting General Counsel could provide a timeline of the process it would take to pursue the possibility of a state wide property contract.

Reciprocity Agreements

KREC has entered into a reciprocity agreement with Ohio. Indiana did reach out to us, but that has temporarily been halted. There has not been much success with other states, much like Indiana, due to Covid-19 and other things going on in the country. It has been difficult to get this front and center. But KRE is continuing to work to do so. Once things have settled down it will become a main priority again.

Approval Per Diem

General Counsel stated that there were a few other per diems that needed to be approved separately from the June per diem.

1. Commissioner Disney made a motion to approve the per diem for the month of June. Because it was teleconferenced, there were no travel expenses. Commissioner Wiseman 2nd the motion. Having all in favor, the motion carried.
2. Commissioner Simpson made a motion to approve the per diem for Commission Chair Disponett and Commissioner Disney for the attendance two Forms Task Force meetings and a Complaint Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Beckham 2nd the motion. Having all in favor, the motion carried.
3. Commissioner Beckham made a motion to approve the per diem for Commissioners Cline and Simpson for their attendance of the Complaint Review Committee meeting.

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 the recommendation that the next KREC Commission meeting be held via teleconference on July 16th, 2020 at 9:00 AM. Watch for a link for another Zoom meeting.

Director Astorino stated that he found this meeting to be very informative and that there was a lot accomplished. This meeting helped to clarify some of the priorities of the Commission for him. That he is not sure when all of this will be resolved physically. Whether it be in the office or via phone conversations, rest assure that the staff is working. That there are some additional priorities laid out based on what had been discussed in this meeting.

Commissioner Cline asked for some clarification based on the last subject of state wide forms. He stated that KYR (Kentucky Realtors), spent a little over two years putting together a state wide form. It is not mandatory that everyone uses it, but it has been put together. It is based on Louisville's current contract. There are lots of state that have mandatory state wide forms through their Real Estate Commissions. And he agrees with Commissioner Simpson that this is to protect the agent, the consumer and the principal brokers. According to Commissioner Cline real estate transactions do not alter that much over the state of Kentucky and that is what addendums are for. We have the capabilities of making changes to our contracts on a daily bases and we do. He believes it to be the right move for the KREC.

Commissioner Disney made a motion to adjourn the meeting. Commissioner Wiseman seconded. Having all favor, the motion carried and the meeting adjourned at 2:26 PM.