

Andy Beshear
Governor

Kerry B. Harvey, Secretary
Public Protection Cabinet

Robert Laurence Astorino
Executive Director

John L. Hardesty
General Counsel



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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

**KENTUCKY REAL ESTATE COMMISSION
(KREC)
MEETING MINUTES
July 16, 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

KREA Staff

Robert Laurence Astorino, Executive Director
John Hardesty, General Counsel
Hannah Carlin, Education Coordinator
Shannon Buzard, Executive Administrative Secretary
Angie Reynolds, Administrative Specialist III

Guests Present

Andrea Higdon
Doug Meyers
Edwin Huntley
eKarb
Elijah Bishop
Gay Wilson
Ihorne
Jane Wilson
Janie Wilson
Jim DeMaio
John Huggins
Judy Bell
Karen Pannell
Lester Sanders

Linda Flickenger
Linda Townzen
Lisa Stephenson
Margie Harper
Mark Perkins
Marsha Bartlett
Michael Hess
Mitchell Thomas
Mitchell Thomas
Nick Gross
Nicole Knudtson
Pam Featherstone
Paul Ogden
Peggy Smith

Richard Wilson
Robin Roseberry
SLC Realtors
Steve Kasling
Steve Stephenson
Thomas Butler
Twilla Williams
Tyrayle Hill
Virginia Lawson
William Frell
270-444-6540
502-609-4778

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 9:02 a.m. on July 16th, 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 **June 18th, 2020** Commission Meeting Minutes. Commissioner Cline seconded the motion. With all in favor, the motion carried.

Education and Licensing Report

July 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 Education Providers
 - a. General Title Insurance Company
 - b. South Central Kentucky Association of Realtors
2. 2020 Continuing Education Courses

Realtor Association of Southern Kentucky

Course Name- Course Number	Instructors	CE Hours
Kentucky Core Course (22242)	Christine Morgan	6 law

3. 2020 Continuing Education and Post-License Education Courses

Realtor Association of Southern Kentucky

Course Name- Course Number	Instructors	CE Hours	PLE Hours
ANSI: The Art of Calculating Gross Living Area (21094)	Christopher Graham	3 elective	3 elective
Listing to Purchase: Set-Up for Success (21100)	Christine Morgan	3 law	3 contracts
Real Estate Code of Ethics- Law (22375)	Christine Morgan	3 law	3 elective

4. 2020 Broker Electives/NAR Designation Courses

Kentucky Realtor Institute

Course Name- Course Number	Instructors	Broker Elective Hours	CE Hours	PLE Hours
Commercial and Investment Real Estate: Tools of the Trade (23110)	Art Reed	20	6 elective, 3 law	9 finance

5. 2020 Broker Curriculum Courses

Kentucky Real Estate College

Course Name- Course Number	Instructors	Broker Curriculum Hours
Broker Appraisal and Finance (23112)	Lee Harris, Ken Perry	48
Broker Kentucky Law and Investment (23111)	Lee Harris, Ken Perry	48

Kentucky Realtor Institute

Course Name- Course Number	Instructors	Broker Curriculum Hours
Essentials of Real Estate Finance (23113)	Art Reed	48

6. 2020 Instructors

- a. Christopher Graham
- b. Robert B. Holman
- c. Christine Morgan
- d. Michael M. Wolf

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

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

As of July 9, 2020

Type	Active	Inactive	TOTAL
Sales Associate	10,985	5,499	16,484
Broker	3,969	777	4,746
TOTAL	14,954	6,276	21,230

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	35	1	36
July			
August			
September			
October			
November			
December			
TOTAL	385	72	457

Ms. Carlin presented the **following requests** to the full Commission for review and consideration with the following actions be taken by the Commission:

1. Lisa Clark Education Request – Commissioner Disney motioned to approve Lisa Clark to be retake the sales associate license exam and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
2. Lisa Tucker License Request – Commissioner Wiseman motioned to approve Lisa Tucker's request, but requires Ms. Tucker to obtain another background check to be taken and Commissioner Amann 2nd the motion. Having all in favor, motion carried.

Executive Director Comments

Director Astorino gave a **Covid-19 update**, noting that the Cabinet Secretary has asked staff to continue to work remotely. That masks must be worn at all times when in the building. That this is being taken very seriously. Unless deemed essential personnel, all employees are continuing to work remotely from home. Director Astorino noted that employees are continuing to work hard and are doing more with less. That their focus is efficiency and transparency.

Committee Reports

Commissioner Disponett appointed Commissioners Amann and Disney to the ARC Committee, which will start meeting next month. The 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:



Final Adjudications

16-INF-009 – The anonymous 2016 complaint alleged unlicensed brokerage against respondent, an unlicensed Ohio resident. The respondent passed away in 2018. Because there is no longer anyone to enjoin, the CRC recommended dismissal.

18-C-012 – Complainant filed complaint against respondent, seller's broker, claiming that after her FHA loan was not approved, she requested return of her earnest money deposit, but the broker refused to release her from the contract or return the deposit. Evidence provided by respondent confirmed he eventually returned the deposit, respondent was remorseful, and he switched brokerages shortly after the issue arose, confusion related to which likely accounted for the delay. Due to the lack of discernible violations of KREC statutes or regulations, the CRC recommended dismissal with a caution letter to respondent.

18-C-090 – An anonymous complainant submitted an informal email complaint in 2018 against respondent alleging misleading billboard advertising related to the respondent's number of sales per week. Respondent provided evidence establishing the advertising was accurate as to the weekly number of real estate transactions she was involved in and, thus, claimed it was not misleading. The CRC recommended a dismissal with caution.

18-C-097 – An anonymous complainant submitted an email complaint in 2018 concerning respondent sales associate who had been in escrow since 2008 and who the complainant alleged was going to misrepresent the amount of time per week he practiced as a sales associate in order to apply for a broker's license. The respondent allegedly was going to have his former principal broker sign off that he had fulfilled the prerequisites to become a broker. The principal broker disagreed and said he would not sign off because the respondent had not completed the prerequisites. Because the allegations never came to fruition, respondent did not become a broker, and now has a cancelled sales associate license, the claims are moot. Thus, the CRC recommended dismissal with a note placed in the respondent's file regarding the complaint.

19-C-014 – Anonymous complaint alleged advertising violations by two respondent licensees because advertisements allegedly did not include brokerage information. The advertisements were issued by the property owners, not the respondents. Respondents provided evidence they informed owners in writing of advertising regulation requirements. The CRC recommended dismissal with letters of caution to respondents.

19-C-022, 19-C-0023, 19-C-24 – Complainant submitted separate complaints against three companies allegedly providing brokerage services without a license. An investigation established each entity was using the business model of wholesaling. Therefore, the CRC recommended dismissal of the three complaints.

19-C-025 – An anonymous, informal complaint in early 2019 alleged respondent agent routinely listed and sold homes via short sale, thereby taking advantage of her clients and benefiting her investor clients. The complaint did not state a prima facie violation of KRS 324.160, and KREC could not request a supplement from the complainant due to anonymity. Therefore, the CRC recommended dismissal.

19-C-028 – Complainant submitted an informal complaint in 2019 alleging respondent principal broker committed various advertising law violations, including advertising properties listed by another brokerage without adequately identifying the other brokerage. Through investigation, KREC determined there was some, albeit minimal, information about the listing brokerage on the advertisements. Upon learning of the allegations, the principal broker immediately took action to change the advertisements to conspicuously identify the

listing brokerages. Because there was no violation of KRS 324.160 and respondent immediately rectified the issue, the CRC recommended dismissal with a letter of caution.

19-C-029 – Anonymous complainants submitted informal complaint against respondents, broker and agents, alleging they were misled by respondents into thinking they could build a certain type of home in a local development, which enticed them to sell their home for \$12,000 less than appraisal value. They claim they later learned that type of home could not be built in the local development. Because the complaint and the minimal evidence attached did not state a *prima facie* violation of KREC's statutes and regulations, the information about the type of homes that could be built in the development was readily available to complainants, and KREC could not request a supplement to the complaint from the anonymous complainants, the CRC recommended dismissal.

19-C-051 – Complainants, property owners, filed a complaint against respondent licensee with whom they contracted to provide property management services. Complainants alleged gross negligence against respondent because he delayed in renting out their properties after vacancies arose and did not perform necessary repairs. Respondent denied the allegations and claimed complainants would not approve certain repair expenditures and charged rent above market rate, which caused properties to remain vacant. Based on the totality of the evidence, there was no clear violation of KRS 324.160. Following the dismissal of a related civil lawsuit, both complainants and respondent requested dismissal of the complaint. The CRC recommended dismissal.

19-C-058 – Anonymous complainant submitted an informal complaint in 2019 alleging improper social media posts by respondent licensee. The CRC agreed the social media posts were inappropriate but they and the complaint did not establish a violation of KREC's statutes or regulations. CRC believed the posts may constitute ethics violations. Therefore, CRC recommended dismissal of the KREC complaint and referral of the matter to the Kentucky Association of Realtors for an ethics complaint.

19-C-087 – This complaint involved claims by the complainant against an auctioneer. The CRC recommended dismissal of the complaint and referral of it to the Kentucky Board of Auctioneers.

Pending Cases

17-0011 – The CRC recommended dismissal of the complaint as against the buyer's agent, and authorized KREC's General Counsel to attempt settlement for six (6) hours of continuing education in ethics, in addition to annual required CE, for primary respondent.

18-C-089 – The CRC recommended sending a cease and desist letter to respondent and serving her with the complaint to request a sworn answer.

19-C-012 – The CRC recommended discipline of three (3) hours of continuing education in advertising, in addition to the annual required CE, for respondent, and authorized KREC's General Counsel to attempt to negotiate the discipline through settlement.

19-C-033 – The CRC recommended (1) KREC initiate its own complaint against the Kentucky agent and principal broker; (2) KREC's General Counsel send a cease and desist letter to the Tennessee agent; and (3) KREC refer the matter to the Tennessee Real Estate Commission for action against the principal broker and Tennessee agent.



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 8 new applications and the following case recommendations offered by Commissioner Cline:

- | | |
|--------------|-----------------------------|
| • 16-INF-009 | • 19-C-22, 19-C-23, 19-C-24 |
| • 17-0011 | • 19-C-025 |
| • 18-C-012 | • 19-C-028 |
| • 18-C-089 | • 19-C-029 |
| • 18-C-090 | • 19-C-033 |
| • 18-C-097 | • 19-C-051 |
| • 19-C-012 | • 19-C-058 |
| • 19-C-014 | • 19-C-087 |

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

Reconvene Open Session and Committee Recommendations

Commissioner Amann motioned for the Commission to come out of executive session and Commissioner Wiseman 2nd the motion. Commission Chair Disponett resumed the full Commission meeting at 1:15 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 Simpson motioned to approve Huntley to be issued a license and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
2. Commissioner Wiseman motioned to approve Bartlett to be issued a license and Commissioner Amann 2nd the motion. Having all in favor, motion carried.
3. Commissioner Simpson motioned to approve Bichop to be issued a license and Commissioner Wiseman 2nd the motion. Having all in favor, motion carried.
4. Commissioner Wiseman motioned to approve Goss to be issued a license and Commissioner Amann 2nd the motion. Having all in favor, motion carried.
5. Commissioner Wiseman motioned to approve Hess to be issued a license and Commissioner Amann 2nd the motion. Having all in favor, motion carried.
6. Commissioner Amann motioned to defer Hill to the August meeting until further investigation and Commissioner Cline 2nd the motion. Having all in favor, motion carried.

7. Commissioner Amann motioned to approve the Butler proposed settlement and to issue a probationary license with conditions, Commissioner Simpson 2nd the motion. Having all in favor, motion carried.

8. Commissioner Disney motioned to approve the Harris proposed settlement and to issue a probationary license with conditions, Commissioner Wiseman 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:

- 16-INF-009
- 17-0011
- 18-C-012
- 18-C-089
- 18-C-090
- 18-C-097
- 19-C-012
- 19-C-014
- 19-C-22, 19-C-23, 19-C-24
- 19-C-025
- 19-C-028
- 19-C-029
- 19-C-033
- 19-C-051
- 19-C-058
- 19-C-08

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

Open Forum – Public Comments Only

Rhonda Richardson would like to request that the commission work on more disciplinary action proceeding transparency. She stated that it would be helpful to not only licenses and brokers but also educators, as to know what the violations are and the action taken by the committee. Having this information would help to see how the commission is viewing these types of violations. Which in turn helps to better train affiliated agents and attorneys so that they can better represent their clients. General Counsel noted that he would take that under advisement and that they may be able to implement some transparency guidance in future meetings, as long as the person's identity is protected. He stated he understood how this might be beneficial to licensees in order to understand what is expected of them, in addition to an understanding as to what is sanctioned and what is not. Chairperson Disponett stated that maybe we could create some type of newsletter or 'violation reporting' for the future. General Counsel stated he would take that into consideration.

Legal Report

Advertising Regulation Questions

General Counsel stated that KREC staff is in the process of compiling questions from local and state associations concerning questions and concerns that licensees have regarding advertising regulations. Such things as the interpretations and what needs to be done pursuant to the terms of it. The goal is to review that information and compare it to the regulation requirements, and to create some consistent, reliable guidance. General Counsel stated if you had any questions or



concerns to reach out to your local or state associations within the next month or two as to become part of that process.

Director Astorino stated that they would like to take this information to create a course for trainers so that the information is uniform and consistent statewide. But it is process and will take a few months.

Docket Update

General Counsel stated that KREC is continuing to move through the complaints as quickly as possible. That there has been a few requests concerning status of complaints, and that he and his staff are working as fast as they can. They have been able to work through quite a few each month. He encouraged anyone, a complainant and respondents, to reach out to KREC with any additional questions or concerns. That there has been some staffing changes, but KREC is continuing to move forward.

Reciprocity Agreements

General Counsel stated that they are optimistic that they will be able to start negotiations back up once the second wave of the pandemic is behind us. He and the Director are continuing to work to negotiate through as many as possible when they can. They know how important it is to licensees, especially those licensees living in bordering counties.

Statewide Purchase Contract

General Counsel referred the commissioner to review a memo he had attached regarding a timeline for the creation of a statewide purchase contract. The commission would need to draft, revise and finalize a statewide purchase contract, which would include addendums. Once completed, it and the related regulation amendment would need to be promulgated through the Legislative Research Commission (LRC) for review and approval.

In order to initiate this process, KREC must first prepare and vote to approve a statewide purchase contract form in addition to the required revisions to 201 KAR 11:121 necessary to adopt and incorporate the form. To expedite the process, KREC may choose to call special meetings in order to meet more frequently than once per month while preparing and reviewing the contract form. General Counsel estimated that it would take approximately 4-5 meetings, at a minimum, for KREC to prepare and finalize the necessary forms and revisions, though the process could move more quickly. This estimate assumes prompt participation and input from the Commissioner and industry stakeholders. Additionally, General Counsel recommended obtaining and considering comments from industry stakeholders and regional associations regarding the proposed contract. If such prompt participation does not occur, this initial step in the process likely would take much longer. Once KREC finalizes the form, KREC staff would begin the administrative regulation promulgation process.

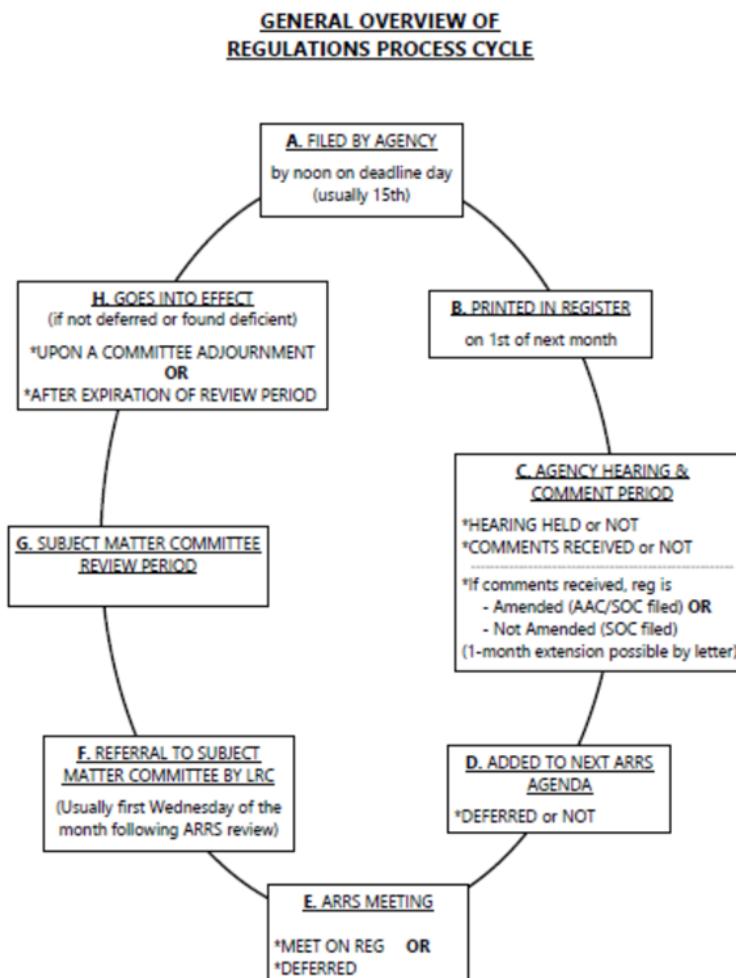
The chart illustrates the administrative regulation promulgation process cycle from start to finish. That is, from the date KREC initially file the regulation with the LRC Commission to the date the regulation becomes effective. As the charts explain, if we file the amended regulation adopting the statewide purchase contract on January 15, 2021, the earliest it would go into effect is September 2021. If significant public comment or other issues were to arise, it would further delay the effective date of the contract form and amended regulation. General Counsel stated that from beginning to end it would take approximately a year to finalize.

Currently, there is already opposition from the Greater Louisville Association of Realtors (GLAR). They feel that a mandatory statewide purchase contract is not in the best interest of the licensees or consumer. This mandate would necessitate the creation of not only a residential sales contract, but a vacant land contract and a commercial sales contract. It would require careful consideration of local laws and would require that KREC stay abreast of local law changes that could potentially impact these documents. It would require consideration of local customs as they vary from community to community, making a one-size-fits-all contract unable to effectively accommodate every region's needs.

GLAR assumes that there will be any changes to these documents, and that the documents will have to go through the same process all other agency forms and including the Seller's Disclosure form. GLAR knows that this process can be quite lengthy and time-consuming. They worry that this will put consumers and licensees in a position where the documents they are using are inaccurate, may have errors, and/or are missing vital information would be a disservice to all parties involved.

General Counsel stated that from a legal perspective he could understand the concern, but it would be up to the Commission as to stay up abreast on changes to any local laws. Then the contract would need to be changed as to abide by those laws. If this were to occur the document would need to be taken back to the promulgation process.

General Counsel noted that he has a few concerns in regards to the creation of a statewide



purchase contract, primarily due to the vast varying needs among the regions of the state. That it would be very difficult to create a document that would be able to satisfy the majority of the industry.

Director Astorino stated that there are arguments for and against the need for this document. Both need to be heard in their entirety and in detail. He suggested what might be needed is not an entire contract, but the creation of contract elements that can be used for any contract that is issued in the state. These elements can be basic, but are part of looked for language used across the state. Localities can adopt certain language needed for their location within the state. That each contract displays fairness, what we want to see in our profession.

General Counsel noted that has already been addressed somewhat in the current regulations. That there are is already a significant list of what elements should be included in a purchase contract. And that they do have minimum requirements for that. He recommended that if the Commission wanted to lengthen that list which is something they can do when they amend the regulations.

Director Astorino stated that he didn't think the idea of one contract was feasible, because it wouldn't be able to meet the needs of everyone. But additional elements might add more uniformity and allow cohesive use.

Commissioner Simpson stated that he was in favor for a statewide residential contract mandatory for all state licensees to use. From personal experience he had received six different versions of a purchase contract for one listing. That necessitated him to know what every one of those contracts said. Which is a lot of work. He said this is not why he is in favor for it, but that his clients are depending on him to know and interpret six different contracts on their behalf. He feels it puts his sellers and his buyers at a disadvantage. He feels that it would be more productive and in the best interest of the client to only have to look for the filled in blank lines versus reading six different contracts in their entirety and then having to interpret that back to the client. He also feels that this would help the licensees to be more productive. He did not feel that local law affected contract law, other than possession law. Or that any local law changes would influence any ongoing changes to a mandatory statewide purchase contract.

At this time Commission Chair Disponett stated that this was important and involves the whole industry and is not something to be entered into lightly. She stated that she would like to form a subcommittee to work on this issue. That if anyone in the industry has questions, concerns, ideas or comments to submit a one page letter to KREC to be reviewed by this subcommittee. Then the subcommittee will return to the commission their findings in the September meeting. At this time she appointed Commissioners Disney, Cline and Simpson to work alongside Director Astorino.

Commissioner Cline stated that the Kentucky Realtors (KYR) has a statewide form, though not mandated, that they currently use. Which he acknowledged that would be a great place to start.

Ms. Hannah Carlin, Education Coordinator, noted that it might be prudent to contact Areollo, as to open up a line of communication with other commissions to see what they do and how that they went about it. Commission Chair Disponett agreed. At this time Director Astorino asked Ms. Carlin to contact Areollo on behalf of the Commission.

Commissioner Amann asked that the subcommittee be mindful that purchase contracts do address things that are locally regulated, which might be by ordinance. You might have some areas, such as by an environment or a historic preservation district that should be addressed in a



purchase contract. Things that differ from municipality to municipality should be considered while creating this document. Commission Chair Disponett recommend that Commissioner Amann send a list of her concerns to the subcommittee to take into consideration.

General Counsel added that prior to the Commission deciding to adopt this form as part of its regulation it would need to be reviewed by the administration and other attorneys. Since it is in its developmental stages he has not gotten any insight as to the administration's position.

In addition, he noted that to a licensee or a broker who finds themselves having difficulty with the language or explanation of a contract to their client, or worried about liability, that it would be prudent for them to seek legal counsel. There are many very competent and capable attorneys that can draft residential and commercial contracts.

Commissioner Simpson noted that the added expense would drive up the cost of housing, which he doesn't feel that is a good way to go in order to protect the consumer. He stated that he has only heard comments and general interest.

Use of Zoom for Continuing Education

Commission Chair Disponett stated that KREC is continuing its education classes via web cam. Commissioner Simpson asked when the classes would resume. If the commission needed to set a date or to leave it open ended? Director Astorino stated until there is a cure or a vaccine, this will be how the classes will need to be conducted. Ms. Carlin noted that as of right now the date is open ended, and that hopefully once the pandemic subsides, if ever, then they will sent some type of 30 day notification or a deadline. She commended those who have been working via ZOOM for their training courses for being flexible and still being able to provide quality education for their licensees. She encouraged them to continue the good work. That everyone is doing that best that they can.

Approval Per Diem

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

1. Commissioner Disney made a motion to approve the per diem for Commission Simpson and Commissioner Cline for the attendance of the July 15th Complaint Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Amann 2nd the motion. Having all in favor, the motion carried.

2. Commissioner Simpson made a motion to approve the per diem for the month of July 16th KREC meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Amann 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 August 20th, 2020 at 9:00 AM. Watch for a link for another Zoom meeting.

Commissioner Simpson made a motion to adjourn the meeting. Commissioner Disney seconded. Having all favor, the motion carried and the meeting adjourned at 2:02 PM.

