



**Matthew G. Bevin**  
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Kentucky Real Estate Authority

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**Authority Boards**  
Kentucky Real Estate Commission  
Kentucky Real Estate Appraisers Board  
Kentucky Board of Auctioneers  
Kentucky Board of Home Inspectors

**Heather L. Becker, General Counsel**  
Kentucky Real Estate Authority

**\*SPECIAL MEETING\***  
**Kentucky Real Estate Commission**  
**MEETING MINUTES**  
**December 6, 2018**

**Commission Members**

Lois Ann Disponett, Chair  
Joe Hayden  
Tom Waldrop  
Steve Cline  
Shirley McVay Wiseman

**Commission Members Absent**

Billy Beckham

**KREA Staff**

H.E. Corder II, Executive Director  
Heather L. Becker, General Counsel  
Alex Gaddis, Deputy General Counsel  
Haley Bradburn, Board Administrator  
Nick Van Over, KREC Licensing Coordinator  
Hannah Carlin, KREC Education Coordinator

**Guests Present**

Catherine Corbett, Greater Rough River Realty  
Justin Landon, LBAR  
Ruth Ann Bowen, KRI  
Sha Fister, Rector Hayden Realtors  
Christel Long, LBAR  
Tom Biederman, KREC



Lisa Stephenson, GLAR

A special meeting of the Kentucky Real Estate Commission was called to order by the Commission's Chair, Lois Ann Disponett, at 8:11 AM on Thursday, December 6, 2018. Guests in attendance were introduced and welcomed. Chair Disponett thanked the staff and Director Corder for their hard work. Roll call was taken and a quorum was present.

### **Regulatory Review Discussion**

Counsel Becker gave a brief summary and shared with the guests in attendance an overview of the regulatory process. She stressed that the regulations are not final and are only drafts for discussion at this point.

#### **Discussion on 201 KAR 11:105, Advertising**

Commissioner Hayden spoke on content required. He suggested that the principal broker should be responsible for the advertising activity of the company as well as the affiliated licensees. He suggested adding clarification regarding the use of a full legal name or nickname with a legal surname (as long as the nickname has been registered with the Commission). Staff was advised to ensure that a licensee's nickname is searchable in DPL. Advertising text as it relates to equal prominence was discussed. The Commission decided equal prominence and size were both included in the meaning. Counsel Becker brought to the Commission's attention that in the current proposed language, there is a requirement that each digital page be considered a separate advertisement and concerns of the resulting regulatory burden. The Commission marked this for further thought and consideration. Commissioner Hayden shared the Mississippi advertisement definition. Counsel advised defining advertising and discussion was held about incorporating Mississippi's definition. The Commission decided to take it under review. The Commission discussed audiovisual ads and the manner in which the required information is relayed. Next, the Commission went over section three (3) and the use of alternate or assumed names. The Commission discussed the issue of requiring the word "team" or "group" to be added to alternate or assumed names when applicable in advertisements. Counsel advised having the least invasive requirements and introduce edits in the future if needed. The Commission decided to remove this requirement in subsection five (5). The Commission identified that sections two (2) and three (3) would have delayed effective dates for compliance purposes. The Commission advised that if a licensee uses an assumed or alternate name, they should use that approved name. The advertisement shall also contain the name of the company where the team leader is affiliated.

#### **Discussion on 201 KAR 11:011, Definitions**

In regards to the definition of advertising, the Commission decided to leave it as is and not be as detailed as the Mississippi definition. The Commission advised adding the language "authorized to sell, buy, or lease subject real estate" in the "Client" definition. Justin Landon with LBAR made a comment as to unlicensed brokerage. Discussion ensued on wholesale selling. Director Corder shared his opinion that if you are licensed, your broker needs to be notified. "Consumer" will be the minimum relationship definition. The Commission added the definition of "Dual Agency" which they want to tie in to agency forms and disclosures. Commissioner Hayden shared that

limited fiduciary has two limits: confidentiality and loyalty. It was noted that a lot of teams out there are probably not currently accurately operating under agency. Commissioner Hayden explained access of confidential documents in regards to dual agency and the clarification in the standards of conduct regulation. It was also noted that the definition “party” would be struck as it is always used in its common meaning. The Commission went through the definition for “prospective client” and noted that the word “party” in the definition would not be used. The Commission also went over definitions for “team leader,” team,” or “teams.” On the subject of teams, Counsel Becker shared an email that had been submitted by Rene Rogers regarding team definitions. The Commission advised that they appreciated the input and but in the end declined to incorporate the suggestion.

#### Discussion on 201 KAR 11:121, Professional Standards of Conduct

Commissioner Hayden brought up section 1(1) for discussion on referral fees. Counsel advised not using the word “referral” in this text due to it already being defined elsewhere. It was discussed how advertising may happen at the licensee level but, but compensation occur at the brokerage level. The Commission advised adding “prospective client disclosure” in the newly created section five (5) of the regulation. The disclosure lists when the Prospective Client Guide to Agency Relationships is due to be offered.

A comment was made regarding the situation of three (3) firms being owned by the same principal broker. It was noted that affiliates under the same principal broker should be operating under dual agency.

The section addressing affiliation was fixed to bring clarification. The Commission went over designated teams and team matters. They discussed principal broker responsibilities. Chair Disponett asked the members of the public if they had any questions on this subject. There being none, the Commission continued with discussion on confidentiality matters as it relates to clerical staff as unlicensed members and the proper procedure of clerical staff only being involved with one party’s side. The Commission clarified that a principal broker can designate a manager at the main firm or registered branch. KREC does not have the capabilities to identify designated managers and currently this is not information submitted. Staff noted changes to make to DPL. Discussion was brought up regarding unlicensed staff being included in team pictures.

#### Other Discussion

Counsel Becker shared highlights of the items accomplished in the December 4<sup>th</sup> committee meeting regarding the licensing regulation review. Tom Biederman shared concern that if harder standards are implemented to become a broker, more people would try to just become teams. Counsel Becker addressed that problems occur and offered that the Commission has the authority to require team leaders to be a licensed broker. Discussion was held regarding criminal history review. The Commission discussed eliminating mandatory investigations of applicants with a felony older than ten (10) years. Commissioner Cline expressed concern of lax criteria and the importance of high standard of protection. Director Corder also commented that the type of felony also plays a part in whether it relates to the license.

### **Next Meeting**

The next regular meeting of the Kentucky Real Estate Commission will be Thursday, December 13, 2018 at 9:00 AM at the Kentucky Real Estate Authority, 656 Chamberlin Avenue, Suite B, Frankfort, KY 40601.

### **Meeting Adjournment**

Commissioner Wiseman made a motion for adjournment. Commissioner Hayden seconded the motion and it carried. The Commission adjourned at 11:59 AM.