



**Matthew G. Bevin**  
Governor

**K. Gail Russell, Acting Secretary**  
Public Protection Cabinet

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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

**KENTUCKY REAL ESTATE COMMISSION**  
**MEETING MINUTES**  
**January 17, 2019**

**Commission Members Present**

Lois Ann Disponett, Chair  
Commissioner Billy Beckham  
Commissioner Steve Cline  
Commissioner Joseph Hayden  
Commissioner Tom Waldrop  
Commissioner Shirley Wiseman

**Committee Members Absent**

None

**KREA Staff**

H.E. Corder II, Executive Director  
Heather Becker, General Counsel  
Alex Gaddis, Deputy General Counsel  
Maryellen Mullikin, Administrative Coordinator  
Hannah Carlin, KREC Licensing Coordinator  
Leah Spears, Public Protection Cabinet  
Michael Spann, Investigator  
Haley Bradburn, Board Administrator  
Julianne Hatton, Executive Administrative Assistant

**Guests Present**

Charles Hinckley  
Richa Tyagi  
Jessica Burch, Career Development Center  
Bradley Herrman, Career Development Center  
Garrett Todd, Career Development Center



Amanda Playforth, Remax  
Sandye Hackney  
Joyce Sterling, Career Development Center  
Angie Klehr, Career Development Center  
Virginia Lawson, McBrayer Law Firm  
Rhonda Richardson  
Cindy Rice Grissom, Rice Insurance Services Company, LLC  
Chris Blankenship, INC  
Mike Lawrence, Lawrence & Lawrence, PLLC  
Paul Ogden, RE/MAX

### **Call to Order and Guest Welcome**

A regular meeting of the Kentucky Real Estate Commission was called to order by the Commissions Chair, Lois Ann Disponett, at 11:13 AM on Thursday, January 17, 2019. Guests in attendance were welcomed and introductions of guests, staff, and commissioners were made. Roll call was taken and a quorum was present.

### **Approval of Meeting Minutes**

Commissioner Hayden made a motion to approve the December 4, 2018 Special Committee Meeting Minutes. Commissioner Beckham seconded the motion and it carried.

Commissioner Hayden made a motion to approve the December 6, 2018 Special Commission Meeting Minutes. Commissioner Beckham seconded the motion and it carried.

Commissioner Beckham made a motion to approve the December 13, 2018 Regular Meeting Minutes. Commissioner Hayden seconded the motion and it carried.

### **Education and Licensing Report**

Hannah Carlin presented the 2018 real estate licensing statistics. Eighty-five new licenses were issued in December 2018. Sales Associates were issued 1,336 licenses and 135 Brokers received their licenses. There were 1,471 total licenses for the year.

Forty-three licenses were cancelled for failure to complete post-licensing education and only 154 licensees have not completed 2018 continuing education. Chair Disponett thanked staff, educators, boards and committee members for bringing that number down from 324 in 2018. As of January 1, 2019 there are 22,392 real estate licensees in the Commonwealth.

### **Instructor Applications**

2019 Instructor Applications were approved by the Commission with a motion by Commissioner Hayden seconded by Commissioner Beckham.

## **Course Approval**

2019 Courses were presented by Hannah Carlin and approved by the Commission with a motion by Hayden, seconded by Beckham.

## **Cancelled Licensees Taking Continuation Education in 2018**

The Commission's Education Coordinator received notification from several education providers indicating that individuals with cancelled licenses completed continuing education in December 2018. Hannah Carlin contacted the relevant licensees. After notifying those impacted, three have submitted paperwork to become active again and two are already active. Carlin said this presents a question regarding unlicensed activity with potential lapses of insurance. Counsel Becker suggested that Legal gather more information on individual cases before referring them to the Complaint Committee in February 2019.

Commissioner Hayden moved that the six individuals whose licenses were expired be referred to the Complaint Committee for further investigation. This was seconded by Commissioner Cline.

## **Applicant Review Committee**

The Applicant Review Committee recommends the following actions:

Patrick McKinney is to be issued a sales person license and a motion was made to provide clarification regarding who his principal broker will be and to amend his application accordingly.

Michael Rosine to be issued a sales person license

Thomas Lockhard to be issued a broker license

Harley Johnson to be issued a broker license

These actions were approved with a motion by Commissioner Wiseman which was seconded by Commissioner Waldrop

## **Complaint Review Committee**

The Complaint Committee reported the following recommendations to the full Commission:

In the matter of 15-043, Deny motion to intervene and set aside order of dismissal. On the Commission's own motion, set aside order of dismissal and order to a hearing with settlement authority. Order Legal to subpoena all documents and communication.

In the matter of 15-062, 16-082, Dismiss

In the matter of 16-042, Dismiss

In the matter of 16-055, Dismiss

In the matter of 16-066, Dismiss

In the matter of 16-072, Refer the matter back to Legal for analysis regarding implication of recovery fund

In the matter of 16-085, Allow complaint to be withdrawn

In the matter of 16-093, Defer to February

In the matter of 18-C-74, Dismiss/refer to HUD

18-C-72 Order to hearing, authorizing counsel to negotiate a resolution within the settlement authority

18-C-73 Refer the matter back to legal for analysis regarding implication of the recovery fund

Commissioner Hayden accepted recommendations seconded by Commissioner Beckham.

### **Education Committee**

Commissioner Hayden said the date for the next meeting is March 12, 2019 and will include Commissioners and staff. Members of the public and other interested parties are invited to attend the open meetings, which include public discussion.

### **Legal Report**

Counsel Becker summarized the next steps in the regulatory review process and advised that more work needs to be done regarding licensing, education, team scenarios, standards of conduct, complaints, discipline and forms. She recommended the appointment of committees with one meeting per week to accomplish these reviews before coming together again as a Commission. Counsel Becker recommended that the meetings start in February based on individual schedules. Chair Disponett said she prefers smaller committees. Future dates will be decided on based on scheduling. Legal will notify the public of these meetings.

### **Code of Ethics Review**

Counsel Becker presented an email from Counsel Virginia Lawson for review by the Commission regarding the 2019 NAR Code of Ethics changes. Standard of Practice 1.7 requires listing brokers and realtors to continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease, unless the seller/landlord has waived this obligation in writing. There is concern that this change could open the door to agents who want to hold offers.

Rhonda Richardson suggested creating a waiver form, as well as revising the regulations as Commissioner Hayden advised would be done. Counsel Becker said to stay tuned for a Standards of Conduct Regulatory Session for follow-up on this issue.

#### Commission Payments

Counsel Becker discussed an email she received, asking if agents in escrow can be paid commission while their licenses are in escrow. The commission said “yes” as long as the commission is earned as an active real estate agent.

#### Escrow Question

Counsel Becker and the Commission discussed an email asking whether agent commissions should be paid from escrow accounts after closing proceeds are deposited. The Commissioners advised that commissions should never be paid from the escrow account and suggested further investigation into the matter.

#### Questions Regarding Closings

Counsel Becker said she received another email asking about agents who plan to escrow in 2019 with properties under contract and the payment of commissions. The Commissioners advised that the scenario is acceptable as long as the commission is earned as an active real estate agent. Counsel Becker said this is a frequent question and should be clearly addressed on the KREC website. The Commission agreed with this suggestion.

#### Revised Criminal History Criteria

On Commissioner Waldrop’s request, Counsel Becker followed up on how to most effectively screen licensee applicants for opiate abuse and sexual misconduct. Counsel Becker provided Commission members with a letter describing a systematic process where applications are first reviewed by the Licensing Coordinator and delivered to Legal if there is a criminal conviction or charge which the Commission shall investigate.

After discussion, the recommended changes to more effectively screen for convictions or allegations of sexual misconduct were approved by the Commission with a motion from Commissioner Hayden that was seconded by Commissioner Wiseman.

#### Timeshare Registry Regulation

The Commission decided to defer the timeshare report by Counsel Alex Gaddis for regulatory review.

#### Continuing Education Hardship and Fine Waiver Request

The KREC discussed whether an incarcerated licensee should receive a hardship extension for his 2018 continuing education and a hardship waiver for the \$500 fine for failing to complete his CE.

Counsel Becker said the licensee provides a legitimate reason, and satisfied his CE for 2017 and license renewal in 2018 while incarcerated. She added that the licensee has been adjudged by the court system as a poor person, so a waiver of the fine would be appropriate.

Commissioner Hayden moved to give licensee a 30-day extension from release which was seconded by Commissioner Wiseman.

Counsel Becker and Hannah Carlin proposed a Special Meeting of the Commission on Friday February 15, 2019 to evaluate 2018 CE hardship requests, allowing for a smother renewal process.

### **Real Estate Authority Director Comments**

Director Corder thanked the legal team and commissioners for work on regulations. He said the KREC is looking forward to a great year. Director Corder said affordable housing is a nationwide problem and Kentucky could be on the cutting edge in finding a solution. He said this will require a team effort with financiers, builders, developers and municipalities.

### **KREC Chair and Other Comments**

Chair Disponett asked Cindy Grissom with RICE Insurance for an update. Grissom said she is meeting with the insurance department to figure out a way to communicate in a more consistent format. Grissom said she will send an email reminder to realtors whose insurance has lapsed.

Maryellen Mullikin was asked by Chair Disponett to address the technical error with E & O insurance that affected about 200 Tennessee licensees. Mullikin said fixing this was a priority for KREC and most of the problems have been addressed.

Chair Disponett thanked Director Corder, Joyce Sterling with the Career Development Center, and everyone present for attending the meeting and working hard. She said she is getting good feedback about the Commission.

### **Executive Session Legal Matters and Case Deliberations**

Commissioner Wiseman made a move for the Commission to enter executive session, pursuant to KRS 61.810, subsection 1 (c) and (j) to discuss proposed or pending litigation and deliberate on individual adjudications in the matter of 18-KREC-1 and 18-CE-13. The motion was seconded by Commissioner Hayden.

### **Reconvene in Open Session**

Commissioner Hayden made a motion for the Commission to come out of executive session. Commissioner Wiseman seconded the motion, and the Commission returned to open session and voted on the following:

In the matter of 18-KREC-1 Commissioner Hayden made a motion to accept the proposed agreed order that was reviewed. Commissioner Beckman seconded the motion and it carried.

In the matter of 18-CE-13 Commissioner Hayden made a motion to accept the proposed agreed order that was reviewed. Commissioner Cline seconded the motion and it carried.

### **Approval of Travel & Per Diem**

Commissioner Hayden moved to approve travel and Commissioner Wiseman seconded the motion and it carried.

### **Next Committee Meeting**

The next regular meeting of the Kentucky Real Estate Commission will be held February 21, 2019 at 11:00 AM at Kentucky Real Estate Authority, 656 Chamberlin Avenue, Suite B Frankfort, Kentucky 40601.

### **Meeting Adjournment**

Commissioner Beckham made a motion, Commissioner Hayden seconded the motion and the meeting was adjourned at 12:57 PM.