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Authority Boards

Kentucky Real Estate Commission
Kentucky Real Estate Appraisers Board
Kentucky Board of Auctioneers
Kentucky Board of Home Inspectors

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SPECIAL MEETING
Kentucky Real Estate Commission
MEETING MINUTES
October 11, 2018

Commission Members

Lois Ann Disponett, Chair
Joe Hayden
Tom Biederman
Billy Beckham
Tom Waldrop

Commission Members Absent

Shirley McVay Wiseman

KREA Staff

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

PPC Staff

Tony Cotto, Executive Advisor, Office of Legal Services
Duncan Bell, Executive Assistant

Guests Present

Nicole Knudtson, Kentucky Realtors
Pamela Gregory, Kentucky Realtors



Michael Lawrence, Lawrence & Lawrence, PLLC

A special meeting of the Kentucky Real Estate Commission was called to order by the Commission's Chair, Lois Ann Disponett, at 9:07 AM on Thursday, October 11, 2018. Guests in attendance were welcomed and introductions of guests, staff, and commissioners were made. Roll call was taken and a quorum was present.

Regulatory Review Discussion

Counsel Becker shared an overview of the 13A promulgation process and timeline for the proposed administrative regulation revisions. In step one (1), policy decisions are made. Step two (2), regulations are filed with LRC, which is only the beginning of the process. Currently, November is being targeted for the filing date, which could result in an April or May effective date. Step three (3) includes review and the public comment period, where at the close of that timeframe, the Commission will respond to all comments submitted. Finally, there will be LRC committee meetings held.

Counsel Becker advised the Commission that she looked at the current regulatory scheme and compiled similar subjects together. There are three (3) possible repealers that have been identified to discuss if time allows in this meeting. She laid out the current seven (7) base regulations proposed to be amended:

- 201 KAR 11:011, Definitions
- 201 KAR 11:105, Advertising
- 201 KAR 11:121, Professional Standards
- 201 KAR 11:170, Education Providers
- 201 KAR 11:190, Complaints and Discipline
- 201 KAR 11:210, Licensing
- 201 KAR 11:220, Insurance

Discussion on 201 KAR 11:011, Definitions

The definition of "Team" was discussed. The Commission wanted to keep designated and managing broker separate, and desired to require that a team leader be a licensed broker (not a principal broker), and allow time for compliance. Rather than using the words "Managing Broker" in said definition, the Commission discussed using the term "Team Leader" in place. The Commission designated that the definition of "Team Leader" would mean an individual who is licensed as a broker and is designated by his or her principal broker to be the head of the team. They also discussed defining the term "Team" or "Teams" as a group of one or more individuals licensed as sales associates or brokers working together who generally are:

- (a) Affiliated with the same principal broker;
- (b) Managed or led by a team leader;
- (c) Representing themselves to the public as part of one entity that performs services for which a real estate license is required pursuant to KRS Chapter 324; and
- (d) Utilizing the same branding and advertising to broker real estate. This changed the definition from using the term "the collective name used by a group" to one or more individuals who are

licensed”, and changed the word “supervised” to “managed or led” by a “team leader” rather than “managing broker.”

Discussion was also held on the meaning of “Without Unreasonable Delay.” It was stated that there is a need for two (2) separate definitions, “Without Unreasonable Delay,” referring to escrow, and “Without Delay,” separately defining the contract aspect. The Commission wanted to make sure that “Without Delay” is also specifically defined in the regulations where it is used. Counsel Becker advised that the three (3) day rule for “Without Unreasonable Delay” is contained in the Seller’s Disclosure per statute though it does not relate to escrow funds.

Discussion on 201 KAR 11:105, Advertising

The Commission discussed some previous work they had done on the advertising regulation in the past. In various places where the regulation mentions “consent,” the Commission indicated it should read “written consent.” Rather than a team not being able to advertise or conduct brokerage activity if any “team member” fails to maintain a license in good standing, the Commission discussed having the language read “team leader” and add “unless the principal broker designates a new team leader.” Section 3 (3)(c) replaced the word brokers with licensees. Graphical representation and logos were discussed as well as licensee owned or managed websites.

Lunch Recess

At 11:44 AM the Commission recessed for a lunchbreak. At 12:30 PM, Commissioner Hayden made a motion to call the meeting back to order, Commissioner Beckham seconded it, and the motion carried.

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

The Commission decided to move the advertising aspects of this current regulation to the advertisement regulation. They also wanted to include the condominium disclosure. Discussion was held on the “Seller Initiated Re-listing Request Disclosure”, and the Commission decided to rename it the “Seller Initiated Contact Form.” Commissioner Hayden brought up the language of the back-up offer and the Commission struck out the requirement of the specific language stating the exact way the provision had to be worded. A new section was added to address condominium certificates. Changes were made to the Commission’s Consumer Guide to Agency Relationships Model Policies and the Agency Disclosure Statements. In the section relating to facsimile or email transmissions, “electronic mail transmission/service” was changed to “digital”, and subsection three (3) was removed as outdated.

Discussion on 201 KAR 11:220, Insurance

The Commission held discussion on insurance tail coverage. If all policies included tail coverage, the public would be better protected for those licenses placed in escrow, cancelled, suspended, revoked. The Commission discussed making the only Commission approved E&O insurance a policy including three (3) years tail coverage.

Public Comments

There were no public comments made.

Next Meeting

The next regular meeting of the Kentucky Real Estate Commission is October 18, 2018 at 9:00 AM held at the Kentucky Real Estate Authority, 656 Chamberlin Avenue, Suite B, Frankfort, KY 40601.

Meeting Adjournment

Commissioner Beckham made a motion, Commissioner Biederman seconded it, and the Commission voted to adjourn at 2:57 PM.