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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
October 30, 2018

Commission Members

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

Guests Present

Dana Anderson, Semonin Realtors
Nicole Knudtson, Kentucky Realtors
Pamela Gregory, Kentucky Realtors
Kathy Weikel, A-Pass Weikel Institute
Sherry Johnson, A-Pass Weikel Institute
Douglas Myers, Douglas Myers Real Estate Services
Rhonda Richardson, Home Services of KY, Inc.
Kathy Pfeffer
Harrell Tague, ReMax Properties East



A special meeting of the Kentucky Real Estate Commission was called to order by the Commission's Chair, Lois Ann Disponett, at 9:02 AM on Tuesday, October 30, 2018. Guests in attendance were welcomed and introductions of guests, staff, and commissioners were made. Roll call was taken and a quorum was present.

Course Approvals

Hannah Carlin presented 2018-2020 pre-license education courses for approval that were not included on the last meeting agenda due to incomplete documentation. These courses would be effective November 1, 2018. Commissioner Biederman made a motion to approve the courses, Commissioner Hayden seconded the motion and it carried.

Regulatory Review Discussion

Counsel Becker shared the current timeline of the regulation review process. The filing target date is for December, however, this can be adjusted if the Commission feels that they need more time. Counsel Becker shared that she had made updates to the proposed drafts as a result of the last regulation review meeting and the discussion held. She distributed a handout regarding teams containing information on how other states handle teams.

Discussion on 201 KAR 11:105, Advertising

Commissioner Hayden brought up discussion on effective dates for the advertising regulation to allow time for compliance. The Commission decided to incorporate a January 1, 2020 effective date for the team and equal prominence aspect of the advertising regulation, both section two (2) and three (3). Commissioner Hayden discussed incorporating aspects of the team language currently contained in the advertising regulation into the definition regulation instead. The Commission also discussed teams in the aspect of spouses working together. Spouses working together as a team are not exempt from team requirements and must include one of them working as a principle broker. Counsel Becker inquired of the Commission if they wanted to include language that the Commission be notified of the registration of a team name as currently only the principle broker is notified of this. Staff discussed creating a provision in DPL and the license verification system in order to track and reflect the registration of a team name. The Commission was in favor of requiring the registration of team names with the KREC. Commissioner Hayden advised that social media must include a direct link to a website or profile page that are in compliance.

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

Counsel Becker posed the main question of when does someone go from prospective customer to client and what are the requirements. The Commission agreed this is a major question to be answered. Commissioner Hayden advised that the names of parties in KRS 324.121 need to be clearly defined and replaced where they are currently used with the clear definitions to bring the regulation into conformity with the statute. Some of the parties to be defined include, "consumer", "dual agent" and "dual agency", including about five (5) definitions total. The Consumer Guide to Relationships would then be built off of that and the forms could be revised according to the updates. Commissioner Biederman shared that you cannot regulate all of this and that it comes back to defining "professional conduct" and following it. Everyone seemed to agree that "designated agency" and "designated agent" should at least be a separate word. Chair Disponett

called the formation of a committee to review and work on cleaning up these various definitions and language and to bring a report back to the full Commission. She appointed Commissioner Hayden to serve as committee chair along with Commissioner Biederman and herself serving as committee members. Commissioner Hayden brought up discussion regarding section six (6) and listing information. He asked if language is needed or if it is too broad.

Lunch Recess

At 10:55 AM the Commission recessed for a lunchbreak. At 11:45 AM, the meeting was called back to order.

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

The Commission discussed principal broker duties. Discussion was held on what items the principal broker is required to maintain. Chair Disponett relayed that correspondence should be preserved, however that would include text messages which would be impossible. Rather than a “real estate broker” not being party to an exclusive listing contract which contains an automatic continuation of the period of the listing beyond the fixed termination date set forth, the Commission advised changing it to “principal broker.” In addition, rather than “real estate broker” not inducing any party to a contract, sale, or lease to break such contract for the purpose of substituting in lieu thereof a new contract with another principal, the Commission advised wording it to read “licensee.” In the language that reads, “Any real estate broker who advertises real property at an absolute auction is obligated to sell property to the highest bona fide bidder on the day of the auction.” The Commission suggested adding that they are obligated to sell “the advertised property.” The Commission discussed team leader versus designated manager and the requirements of being a broker. A weakness in the current statute was identified as currently a designated manager is not required to be a broker. This cannot be changed at this time as it is a legislative issue. Counsel Becker proposed repealing the personal assistant regulation as the current language is more restrictive than the statute. The Commission discussed how the broker is responsible for their agent’s assistant as well. Counsel Becker advised compiling a FAQ to address any clarifications beyond the statute on this matter.

Other Regulation Discussion

Counsel Becker recommended to the Commission the elimination of the timeshare, property management, and personal assistant regulations, or in the least, significantly editing and updating them.

The Commission discussed the idea of filing regulations as they finished their respective review rather than filing one whole complete package of everything at once to allow for more time. Commissioner Hayden advised solidifying the definition regulation first if this was the course taken in order to lay the groundwork for the rest. Director Corder stated that a lot of time and effort has gone into this and he wants to move forward to accomplish it as soon as possible and file everything together. The Commissioners decided to divide up into smaller committee groups to focus on individual regulations for deeper review with legal counsel. The Commission scheduled the following committee review meetings:

201 KAR 11:245, Property Management Review with Commissioner Waldrop on Monday, November 5, 2018 at 11am EST.

201 KAR 11:440, Personal Assistants Review with Commissioners Disponett and Beckham on Wednesday, November 7, 2018 at 2pm EST.

201 KAR 11:210, Licensing and 201 KAR 11:170, Education Providers Review with Commissioner Hayden on Friday, November 9, 2018 at 12pm EST.

201 KAR 11:011, Definitions and 201 KAR 11:121, Professional Standards Review with Commissioners Hayden and Biederman on Tuesday, November 13, 2018 at 9am EST.

Newly appointed Commissioner Steve Cline was assigned to the review of 201 KAR 11:190, Complaints and Discipline at a date and time to be scheduled with legal counsel.

Deputy Counsel Alex Gaddis was assigned the review of 201 KAR 11:180, Timeshares.

The Commission called for a special meeting to be held Wednesday, November 14, 2018 at 10 am EST for the full Commission to come back together and review their individual committee discussions and recommendations with the intent to vote on final regulation revisions at the regular meeting on November 15th.

Public Comments

Commissioners and staff expressed their appreciation for Commissioner Biederman's service to the Kentucky Real Estate Commission as it was the last day of his commission term.

Douglas Myers with Douglas Myers Real Estate Services commented on Fiduciary duties. He shared thoughts that the law should mention that you become a fiduciary when you start consulting with people, whether or not you become an agent and suggested using the term "sub agent" for anyone that is not a principal broker to clarify some of the issues about who owns listings and business, etc. Sub agents are brokers or sales associates that work for the principal broker. He also wanted to emphasize professionalism in education regulations. Regarding teams – he is on the "hot browns" team but he does not share profits or advertise as a team. He wants to make sure there is a real good definition.

Next Meeting

The next meeting of the Kentucky Real Estate Commission will be a special held meeting on Wednesday, November 14, 2018 at 10:00 AM at the Kentucky Real Estate Authority, 656 Chamberlin Avenue, Suite B, Frankfort, KY 40601. The next regular meeting of the Kentucky Real Estate Commission is November 15, 2018 at 9:00 AM.

Meeting Adjournment

Commissioner Biederman made a motion, Commissioner Hayden seconded it, and the Commission voted to adjourn at 1:45 PM.

1. 2018-2020 Pre-licensing Courses

A-Pass Weikel

Course Name	Instructor(s)	Pre-licensing Hours
Real Estate Brokerage Management 302	Cliff Eddleman, Don Gaines, Leesa Hill, John J. Weikel II	48
Real Estate Finance 301	Cliff Eddleman, Don Gaines, Bill Miracle, Pam Mooney, Mark Suna, John J. Weikel II	48
Real Estate Investment	Cliff Eddleman, Don Gaines, Bill Miracle, Pam Mooney, Mark Suna, John J. Weikel II	48
Real Estate Law	Cliff Eddleman, Don Gaines, Leesa Hill, Sandra Jackson, Bill Miracle, Pam Mooney, Mark Suna, Robert Vaughn, John J. Weikel II, John J. Weikel Sr.	48
Real Estate Marketing 201	Cliff Eddleman, Don Gaines, Leesa Hill, Sandra Jackson, Bill Miracle, Pam Mooney, Mark Suna, Robert Vaughn, John J. Weikel II	96
Real Estate Principles and Practices 100AB	Cliff Eddleman, Don Gaines, Leesa Hill, Sandra Jackson, Bill Miracle, Pam Mooney, Mark Suna, Joanna Tucker, Robert Vaughn, John J. Weikel II, John J. Weikel Sr., Tom Wright	96
Real Estate Property Management	Cliff Eddleman, Don Gaines, Pam Mooney, Mark Suna, John J. Weikel II	48

Kentucky Real Estate College

Course Name	Instructor(s)	Pre-licensing Hours
Broker Law	Ken Perry	48
Broker Management	Ken Perry	48
Pre-license	Kent Gray, Lee Harris, Ken Perry	96