



Andy Beshear
Governor

Robert L. Astorino
Executive Director

Kerry B. Harvey
Secretary

Kentucky Real Estate Authority
Kentucky Real Estate Commission
Mayo-Underwood Building
500 Mero Street, 2NE09
Frankfort, Kentucky 40601
Phone: (502) 564-7760
<https://krec.ky.gov>

John L. Hardesty
General Counsel

Ray A. Perry
Deputy Secretary

KENTUCKY REAL ESTATE COMMISSION
(KREC)

MEETING MINUTES

May 20, 2021

*** This meeting occurred via Zoom Teleconferencing, pursuant to KRS 61.826***

Commission Members Present

Commissioner Chair, Lois Ann Disponett
Commissioner Larry Disney
Commissioner James Simpson

Commissioner Steve Cline
Commissioner Raquel Carter
Commissioner Anthony Sickles

KREA Staff

Robert Laurence Astorino, Executive Director
John Hardesty, General Counsel
Brian Travis, Investigator
Terri Hulette, Executive Administrative Secretary
Angie Reynolds, Administrative Specialist III

Guests Present

Cathy Corbett
Gina Schaal
Jim DeMaio (RASK)
Joyce Sterling
Judy Ball
Linda Flickinger

Margie Harper- HKAR
Nicole Knudtson
Pam Carroll
Pam Featherstone
Rene Rogers
Rhonda Richardson

Richard Wilson
Ryan Ward
Steve Stephens
Sue Ann Collins
Tom Cox
Virginia Lawson

Janine Wilson
Sarah Gatewood
Steve Lewis
Linda Cecil

Brenda Gooslin
Paul Ogden
Zach Morrell
Douglas Meyers

Jennifer Allen
Marcie Estep
502-558-8894

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 May 20, 2021. 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

1. Commissioner Cline made a motion to approve the **March 3, 2021** Special Meeting Minutes Commissioner Disney seconded the motion. With all in favor, the motion carried.
2. Commissioner Simpson made a motion to approve the **May 12, 2021** Special Meeting Minutes Commissioner Cline seconded the motion. With all in favor, the motion carried.
3. The **April 15, 2021** Commission Meeting Minutes are still in the process of being drafted.

Education and Licensing Report

Ms. Hannah Carlin presented the Commission the following:

1. PSI Testing Statistics

April 2021 (First Time)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity- Broker	2	33.33	4	66.67	6
License Reciprocity- Salesperson	8	80.00	2	20.00	10
Broker- National	11	91.67	1	8.33	12
Broker- State	7	53.87	6	46.15	13
Salesperson- National	129	77.71	37	22.29	166

Salesperson- State	104	61.90	64	38.10	168
TOTAL	261	69.60	114	30.40	375

April 2021 (Repeat)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity- Broker	0	0.00	1	100.00	1
License Reciprocity- Salesperson	2	66.67	1	33.33	3
Broker- National	3	42.86	4	57.14	7
Broker- State	6	75.00	2	25.00	8
Salesperson- National	26	26.26	73	73.74	99
Salesperson- State	60	47.62	66	52.38	126
TOTAL	97	39.75	147	60.25	244

2021 (Cumulative)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity- Broker	9	50.00	9	50.00	18
License Reciprocity- Salesperson	35	76.09	11	23.91	46
Broker- National	41	67.21	20	32.79	61
Broker- State	35	53.85	30	46.15	65
Salesperson- National	588	60.31	387	39.69	975
Salesperson- State	594	54.85	489	45.15	1,083
TOTAL	1,302	57.92	946	42.08	2,248

2. Licensing Statistics

As of May 12, 2021

Type	Active	Inactive	TOTAL
Sales Associate	11,590	5,692	17,282
Broker	3,813	811	4,624
TOTAL	15,403	6,503	21,906

Licensees cancelled in April 2021: 465 (175 brokers, 290 sales associates)

Most cancelations were due to failure to renew E&O. Commissioner Sickles asked Ms. Carlin for a side by side comparison from last year to current. She said that she would be able to get that to him by next month.

New Licenses Issued in 2021 (by month)

Month	Sales Associate	Broker	Total
January	109	10	119
February	172	14	186
March	122	5	127
April	163	12	175
May			
June			
July			
August			
September			
October			
November			
December			
TOTAL	566	41	607

The May 2021 **Continuing Education Applications** were reviewed for compliance with 201 KAR 11:170 and recommended to the Commission for approval by Hannah Carlin.

Reciprocal License Law Courses

Cooke Real Estate School

Course Name- Course Number	Instructors	Hours
40-Hour Kentucky Reciprocal License Course (22309)	Frank Cooke	40

Kentucky Realtor Institute

Course Name- Course Number	Instructors	Hours
West Virginia Reciprocity (23308)	Dennis Stilger	40

Continuing Education and Post-License Education Courses

Greater Louisville Association of Realtors

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Agency Law in Kentucky (23314)	Harry Borders, Jennifer Fields	3 law	3 agency

Kaplan Real Estate Education

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Today's Real Estate Event Marketing OnDemand Course V1.0 (23310)	Ted Highland	6 elective	6 elective

Northern Kentucky Association of Realtors

Course Name- Course Number	Instructors	CE Hours	PLE Hours
No Longer "Just" a Realtor (Fair Housing) (23311)	Leigh Brown	3 law	3 fair housing

Southern Indiana Realtor Association

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Ethically Speaking: How Ethics Shape Your Career in Real Estate and Determine Your Level of Success	Charles Marshall	3 elective	3 elective

Broker Electives/NAR Designation Courses

Kentucky Realtor Institute

Course Name- Course Number	Instructors	Broker Elective Hours	CE/PLE Hours
2021 Realtor Summit (23313)	Trista Cruzydlo, Cindy Grissom, Juanita McDowell, Jeff Ratanapool, Dennis Stilger, Amy Wickliffe	8	CE- 3 law, 3 elective

Instructors

- a. Kenny Hawkins
- b. Dolly Lopez

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

Ms. Carlin presented the **May 2021 licensing requests**:

1. **270028** - Commissioner Cline made the motion to deny. Commissioner Carter 2nd. Having all in favor, motion carried.
2. **270248** - Commissioner Simpson made the motion to approve. Commissioner Disney 2nd. Having all in favor, motion carried.
3. **R.S.** - Commissioner Cline made the motion to deny. Commissioner Carter 2nd. Having all in favor, motion carried.

Ms. Carlin wanted to let all the educators and licensees in attendance know that the Commission staff is working on email notification and are adding some additional language to the website to remind everyone about the pending expiration of the COVID-19 related extension deadlines. Obviously we do not know when the State of Emergency (SOE) will end, but it will end. She just wanted to make everyone aware and wants to ensure that licensees are taking the right steps as to not having their licenses canceled.

All PLEs and CEs of 2020 CE; and anyone who's PLE was originally set to be due within the

date of the SOE now will be due within 30 days after the date of the SOE ends. Whatever that end date is, within 30 days of that date. In addition, there will be changes to the broker curriculum requirements. The new regulations do not allow broker applicants to count their sales associate pre-licensing course towards their cumulative broker education requirement. The Commission voted back in March of 2020 to delay that until 45 days after the SOE. At that point once the SOE is lifted, if someone wants to get their brokerage license and wants to count their sales associate pre-licensing courses towards their cumulative broker education requirement must first complete the additional education, pass the exam, submit their finger prints, and submit their application to the Commission before the 45 days is up.

Senate Bill 150 states that licensees cannot be canceled for failing to pay the \$10 E&O processing fee during the SOE. But once that SOE ends licenses will be canceled for failure to pay the processing fee even if they have paid their E&O insurance. Currently Ms. Carlin and staff are working to notify any licensee that hasn't paid, in addition to notifying all the local Realtor Boards and KREC Educators. They will also send out a notification once the SOE is lifted.

Executive Director Comments

Director Astorino welcomed everyone. He stated that Ms. Carlin did a good job in summarizing what is coming. He believes this to be a great opportunity for the state wide organizations to give us a helping hand, because there are a lot of people associated through those groups. He asks that any association here today to not only help us, but their members by spreading the word.

He wanted to give a personal thanks to Commissioners Simpson and Disney for their work that they did with the Forms Committee. General Counsel and Ms. Carlin also worked very hard on the forms, but the Commissioners volunteered and has put in a lot of effort. He is hopefully that effort will be successful. He feels that they could not have done it without them.

He also wanted to thank the education providers for generating a 70% pass rate.

We are eventually going back to work at the Mayo-Underwood Building. We do not know when but it is coming soon. According to the current guidance offered, to conduct any in person meetings there will be a standard of 75% vaccination of everyone in the room. Many of those in the room will not be public participants, meaning Commissioners and staff. There should be more to tell by the next Commission Meeting.

He has currently been working with a contract manager in obtaining E&O insurance contract that will sync with the 2 year license renewal. Which is often over looked by the licensees and causes a lot of confusion for them. He believes that this will help to make it easier for the licensee and the staff. He has no recommendation for today, but is still working on information to present to the Commission. This issue will be revisited within the next few months.

He continues to be impressed with the high quality and volume of work produced by the employees of KREA.

Committee Reports

Education Committee

There was no Education Committee report for this meeting.

Diversity, Equity, & Inclusion Subcommittee

There was no Diversity, Equity, & Inclusion report for this meeting. They are still working on the initiatives as previously discussed. They are currently waiting on the KYR demographic report.

Commissioner Disney asked the representative from Kentucky Realtors (KYR) if they could give a time frame of when the demographics results would be available. Steve Stevens of KYR stated that they had received the initial report from the consultants minus the conclusion which is currently being worked on. There is a lot of information covered concerning membership across the state. They hope to have the report to the Commission after their June-July meeting. It is statistically significant, about 2000 licensee participated. There are many interesting things in there - such as there are 29 languages spoken across the state by various licensees. Making us more of a melting pot than previously thought. They know what the distribution of female to male is and information regarding ethnicities. Include female brokers versus female agents. However, they are still waiting for the conclusion from the consultants prior to releasing the report to the public.

Form Subcommittee

General Counsel stated that there has been a long and drawn out discussion regarding the forms that were promulgated in the 2019 Regulation Revisions. The Forms Committee has met twice over the last month and there has been previous input as to how the forms should be changed. Based on that, the regulations and some statute requirements that was not included, the Forms Committee presented the recommended form changes to the full Commission for review.

1. KREC Form 400: A Guide to Agency Relationships

Commissioner Carter asked if a Public Comment would be conducted prior to use of the Forms. General Counsel noted that there will need to be an amendment to 201 KAR 11:121 prior to the official adoption of any of the new forms. If the forms were to be approved today he would write up the proposed amendment to the regulation, submit it for Cabinet approval prior to submitting the changes to the Legislative Research Commission (LRC). Once filed with LRC there is a formal and well documented Public Comment process that is part of the notice and comment

process. Or if the Commission wants Public input prior, they can post the forms on the website and conduct an internal Public Comment Forum prior to voting. But that would be up to the Commission.

Commissioner Carter recommended that General Counsel and staff post the Forms on the website for Public Comments, allow 30-days for comment and for the Forms Committee to meet again to review those comments as to report their findings back to the Commission at the July meeting. All the other Commissioners were in agreement. General Counsel stated they will set a deadline for Public Comment by June 18th – this will allow a month for comment, and the Forms Committee time to meet again and review. This decision was later changed due to disagreement about the forms and the decision to send them back to the committee for further consideration.

2. KREC Form 401: Agency Consent Agreement (Buyer & Seller)

Commissioner Simpson made the motion to send Form 401 back to the Form subcommittee for revision. Commissioner Disney 2nd. Having all in favor, motion carried.

3. KREC Form 402: Seller’s Disclosure of Property Conditions

Commissioner Disney made the motion to send the form 402 back to the Form subcommittee for revision. Commissioner Sickles 2nd. Commissioner Simpson voted ‘nay’ motion carried.

General Counsel summarized that the Commission was okay with the KREC Form 400: A Guide to Agency Relationships changes but asked that the Forms Committee meet again to revise the other three forms based on KREC’s internal Public Comments forum results.

Applicant Review Committee

Commissioner Simpson read the report of the Application Review Committee and the Committee’s recommended action on each licensee:

At this time the Applicant Review Committee made the following recommendations:

1. To approve D. B. a license.
2. To approve M.F. a license.
3. To approve W.H. a license.
4. To approve C.S. a license.
5. To send T.B. a letter of warning
6. To defer A.P. to the June Meeting.

Complaint Review Committee

Commissioner Carter 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

1. **18-C-022** – The Complainant's primary claim is that Respondent misrepresented the square footage of the subject property, which caused issues with the value of the property and ultimately caused Complainant to not buy the property. The Complainant did not receive his earnest money deposit back.

The evidence establishes that the Respondent did not commit licensing law violations and properly represented both the sellers and Complainant. Specifically, Respondent was honest and transparent during her dealings with Complainant, multiple appraisals were done on the property, which from the evidence was very difficult to measure, and Respondent even went to the property and personally measured it when discrepancies arose between multiple appraisers' measurements. The issue of Complainant's earnest money deposit is a contract dispute between him and the sellers, and does not involve or implicate the Respondent in the absence of evidence of wrongdoing by Respondent. **The Committee recommends to the full Commission to dismiss the complaint.**

2. **19-C-091** – The Complainant claims he agreed to pay to move a fence on property he was selling that adjoined his current property so that the fence was on the actual property line after a survey revealed the fence encroached onto the parcel he was selling, but was told from the fence contractor that Respondent, his agent, contacted the contractor about the cost for adding a gate to the fence for the buyers, too. Complainant claims he did not agree to pay for this additional expense. He also claims Respondent committed violations in causing delays to closing and other issues.

The evidence here does not establish violations of KRS 324.160 on the part of Respondent. He appears to have exercised reasonable care and diligence, communicated regularly with Complainant, followed his instructions, made the required disclosures, and took care of matters at the property for Complainant and his wife, who lived out of state. While Respondent contacted the fence company about adding a gate, it was to get a quote for the buyers so they could determine if they wanted to pay to add it. Moreover, the delays in closing were not caused by Respondent, but instead were caused by Complainant's failure to disclose, or lack of knowledge, that the fence encroached onto the parcel he was selling, which required relocation of the fence. **The Committee recommends to the full Commission to dismiss the complaint.**

Pending Actions

3. **17-C-003** – **The Committee found evidence of violations and recommends a Formal Reprimand against both of the agent Respondents, in addition to a \$1,000 fine, 30-day suspension (probated for one year), and CORE CE in addition to existing CORE requirements.**

The Committee recommends to the full Commission to dismiss the claims against the Principal Broker with a letter of caution regarding the supervision of his agents.

4. **19-C-002** – Complainant recently notified KREC the matter has been resolved to his satisfaction and he requested a withdrawal of the complaint. **Due to the evidence of violations here, the Committee recommends to the full Commission to reject the request to withdraw the complaint and issue a formal reprimand against the Respondent regarding failure to comply with KREC’s record retention policy and escrow account laws.**
5. **19-C-080, 20-C-019, 20-C-028** - In response to these complaints and due to the troubling allegations of ongoing escrow account violations, the Kentucky Real Estate Commission issued an Emergency Order Suspending License at its May 2020 meeting in order to summarily suspend the license of the Respondent in 19-C-080 and 20-C-019, pending a final hearing in the two complaints against him, which became effective on June 10, 2020.

That Respondent was served with the Emergency Order Suspending License and the complaints against him. To date, he has not requested an emergency hearing or filed sworn answers in response to the complaints, though he provided KREC with interviews.

In addition, one Complainant filed a complaint against the Respondent’s principal broker and grandfather, alleging failure to properly supervise the Respondent’s activities and potential involvement in the alleged wrongdoing. The Respondent’s grandfather/principal broker passed away during KREC’s investigation into the complaint against him.

KREC recently concluded its investigation into these three cases. Below are the Committee’s recommendations for each case.

- a) **Case No. 19-C-080** – The Committee found evidence of escrow account and other licensing law violations, as well as potential fraud, in this case. **The Committee recommends to refer the case to a hearing to permanently revoke the Respondent’s license. Because Complainant has been compensated for its damages through other means, this case does not implicate the Recovery Fund.**
- b.) **Case No. 20-C-019** - **The Committee found evidence of escrow account violations, other licensing law violations, and potential fraud in this case. It recommends to refer the case to a hearing to permanently revoke the Respondent’s license and for recovery fund proceedings in light of the Respondent’s claimed damages and evidence of fraud.**
- c). **Case No. 20-C-028** - The Complaints claim that the Principal Broker had knowledge that the Licensee was committing licensing law violations and did nothing. Since then the Respondent has passed away. **The Committee recommends to dismiss due**

to death of the only Respondent. However, the Committee recommends to initiate a complaint against the Respondent's grandmother, who is the principal broker of another brokerage, for allowing the Respondent to use and access her company's escrow accounts and failing to take action to stop it when he was not, in fact, affiliated with her brokerage, and for other involvement in potential wrongdoing.

6. **21-C-011 - The Committee recommends to the full Commission to refer the case for further investigation.**

Executive Session Legal Matters and Case Deliberations

At 11:16 a.m. Commissioner Carter 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 concerning an Education Instructor Issue, the Education Provider Issue and deliberate on individual adjudications and to discuss 6 new applications reviewed by the ARC, and the 6 above CRC case recommendations as offered by Commissioner Simpson:

- 17-C-003
- 18-C-022
- 19-C-002
- 19-C-091
- 19-C-080, 20-C-019, 20-C-028
- 21-C-011

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

Reconvene Open Session and Committee Recommendations

Commissioner Disney motioned for the Commission to come out of executive session and Commissioner Simpson 2nd the motion. Commission Chair Disponett resumed the full Commission meeting at 11:16 a.m. and welcomed everyone back attending the teleconference Commission meeting.

Commissioner Simpson made the motion to adopt the **Applicant Review Committee** items 1-4 as previously recommended to the Commission. Commissioner Carter 2nd the motion. Having all in favor, motion carried.

Commissioner Simpson made the motion to send T.B. a warning letter and to extend his probationary period 12 months and require no positive drug testing. Commissioner King 2nd the motion. Commissioner Carter voted 'nay'. Motion carried.

Commissioner Simpson made the motion to defer A.P. for the June Meeting. Commissioner King 2nd the motion. Having all in favor, motion carried

Commissioner Carter made the motion to adopt the **Complaint Review Committee**

recommendations as previously stated to the Commission. Commissioner Simpson 2nd the motion. Having all in favor, motion carried.

Public Comment

Chairperson Disponett opened the floor for public comments.

There were no public comments at this time.

Legal Report

Docket Update

General Counsel stated that we have a number of cases proceeding through Hearings. They are continuing to work on settlements for disciplinary actions. He is pleased with how they are moving along. He thanked Brian Travis and Angie Reynolds for all their hard word.

Our largest case is now in a Hearing. The Office of Administrative Hearings now controls that process but we are hoping to get resolution and that we will be able to compensate the victims, with proof of damages, in these case(s). The total case involves 12 complaints. Our second largest case is a combination of 3 complaints that were voted on today. Those will also be referred to a Hearing.

He is currently working with the Cabinet on their the Regulation Review Initiative. They will be looking at all the Regulations across the various agencies within the Cabinet. Currently they are conducting a staff level review. Later on it will be review on an agency level and come will before the Commission. He will continue to update the Commission as it develops.

As of right now we will continue to meet by Zoom. If the Commission were to meet in person. The public, due to COVID restrictions, would not be able to participate, so it would still need to accessible to the public. The Open Meetings Act does allow for the Commission to continue their meeting via Zoom even after the SOE is lifted. This would be up to the Commission to decide.

General Counsel reiterated what Ms. Carlin had stated about what to expect when the SOE is lifted. That if you have not taken care of these things pertaining to your license than you will need to do so.

New Business

KYR - \$5000 Payment for Continuing Education

Nicole Knudtson of KYR, introduced herself and stated that KYR is requesting funds from the Commission to open up an educational and informal session for the licensees at their annual convention. The session is a three hour CE safety course and a one hour Diversity conversation, which falls under Professional Development. The funds would be used towards speaker fees and accommodations. It will be made available to all licensees for free at time of registration. There will also be other educational offerings to members and non-members alike for a fee.

KYR feels that these sessions help to cover issues prevalent to an Agent's life today and offer a higher level of education. They hope to partner with the Commission to offer safety information and an important conversation for our real estate professionals.

Ms. Carlin noted that the course will still have to go through the normal approval process before the Commission as any other. The vote today is approval to spend the funds to support the sessions. Dir. Astorino stated that the sessions have been preapproved by the Secretary of the PPC Cabinet.

Commissioner Cline made the motion to adopt the KREC Grant as previously recommended to the Commission. Commissioner Carter 2nd the motion. Having all in favor, motion carried.

Recovery Fund Education Grant

Ms. Carlin wanted to verify with the Commission their interest in continuing the KREC grant program to administer Real Estate courses at a state college level for these coming fall. They have done this in years past. The qualifying applications are reviewed on a case by case basis and then presented to the Commission for approval. She suggested that they wait until the June Meeting so that they can set some official parameters beyond what we currently have. The Commission members agreed.

Approval Per Diem

1. Commissioner Carter made a motion to approve the per diem for Commissioners Simpson and Commissioner Disney for the attendance of the May 3, 2021 Special Meeting. Because it was teleconferenced, there were no travel expenses. Commissioner King 2nd the motion. Having all in favor, the motion carried.
2. Commissioner Carter made a motion to approve the per diem for Commissioners Simpson and Commissioner Disney for the attendance of the May 12, 2021 Special Meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Cline 2nd the motion. Having all in favor, the motion carried.

3. Commissioner Disney made a motion to approve the per diem for Commissioners Simpson and Commissioner King for the attendance of the May 19, 2021 Application Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Cline 2nd the motion. Having all in favor, the motion carried.
4. Commissioner Simpson made a motion to approve the per diem for Commissioners Cline and Commissioner Carter for the attendance of the May 19, 2021 Complaint Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner King 2nd the motion. Having all in favor, the motion carried.
5. Commissioner King made a motion to approve the per diem for the May 20, 2021 KREC Regular meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Carter 2nd the motion. Having all in favor, the motion carried.

Meeting Adjournment

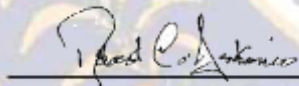
The next KREC meeting will be June 17, 2021 at 9:00 a.m. for the regular meeting. Watch for a zoom link.

Commissioner King made a motion to adjourn the meeting. Commissioner Simpson seconded. Having all favor, the motion carried and the meeting adjourned at 12:16 p.m.

I, Robert Astorino, Executive Director of the Kentucky Real Estate Authority, have reviewed and pursuant to KRS 324B.060, have (Approved or Disapproved) the expenditures of the Kentucky Real Estate Commission (Insert name of Board) as described in these attached minutes.

Meeting Date May 20 2021.

I have not reviewed, nor did I participate in discussions, deliberations, or decisions regarding, the actions of the Board as it relates to individual disciplinary matters, investigations, or applicant reviews.



Robert Astorino, KREA Executive Director

Date May 20, 2021