



Andy Beshear
Governor

Kerry B. Harvey
Secretary

Ray A. Perry
Deputy Secretary

Robert L. Astorino
Executive Director

John L. Hardesty
General Counsel

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

KENTUCKY REAL ESTATE COMMISSION
(KREC)

MEETING MINUTES

June 17, 2021

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

Commission Members Present

Commissioner Chair, Lois Ann Dispenett
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
Jocelyn Pomales

Sharon Billingsley
Stephen Zogelman
Dennis Stilger
Linda Flickinger
Nicole Knudtson
Pam Carroll

Richard Wilson
Steve Stephens
Tom Cox
Virginia Lawson
Janine Wilson
Jennifer Allen

Linda Rice
Giuvanna Corona
Linda Cecil

Maggie Harper
Vickie Grimes
Jessica McMillon

JLynn
Jac

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 9:00 a.m. on June 17, 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

Commissioner Cline made a motion to approve the May 20, 2021 Meeting Minutes Commissioner King seconded the motion. With all in favor, the motion carried.

Education and Licensing Report

Ms. Hannah Carlin presented the Commission the following:

1. PSI Testing Statistics

May 2021 (First Time)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	1	100.00	0	0.00	1
License Reciprocity-Salesperson	5	41.67	7	58.33	12
Broker- National	5	83.33	1	16.67	6
Broker- State	5	83.33	1	16.67	6
Salesperson- National	100	74.63	34	25.37	134
Salesperson- State	71	52.59	64	47.41	135
TOTAL	187	63.61	107	36.39	294

May 2021 (Repeat)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	0	0.00	0	0.00	0
License Reciprocity-Salesperson	0	0.00	3	100.00	3
Broker- National	1	50.00	1	50.00	2
Broker- State	3	75.00	1	25.00	4
Salesperson- National	27	35.06	50	64.94	77
Salesperson- State	54	57.45	40	42.55	94
TOTAL	85	47.22	95	52.78	180

2. Licensing Statistics

2021 (Cumulative)

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	10	52.63	9	47.37	19
License Reciprocity-Salesperson	40	65.57	21	34.43	61
Broker- National	47	68.12	22	31.88	69
Broker- State	43	57.33	32	42.67	75
Salesperson- National	715	60.29	471	39.71	1,186
Salesperson- State	719	54.80	593	45.20	1,312
TOTAL	1,574	57.83	1,148	42.17	2,722

As of June 8, 2021

Type	Active	Inactive	TOTAL
Sales Associate	11,714	5,712	17,426
Broker	3,819	815	4,634
TOTAL	15,533	6,527	22,060

Licensees cancelled in May 2021: 19 (4 brokers, 15 sales associates)

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	138	7	145
June			
July			
August			
September			
October			
November			
December			
TOTAL	704	48	752

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

Continuing Education and Post-License Education Courses

Kaplan Real Estate Education

Course Name- Course Number	Instructors	CE Hours	PLE Hours
KREC Licensee Compliance V1.0 (23321)	Ted Highland	3 law	3 licensee compliance

Commissioner Cline made a motion to approve the application. Commissioner Simpson seconded the motion. Commissioner Disney abstained from the discussion and the vote. Remaining all in favor, motion carried.

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

1. **270410** - Commissioner Cline made the motion to deny. Commissioner King 2nd. Having all in favor, motion carried.
2. **270662** - Commissioner King made the motion to approve. Commissioner Sickles 2nd. Having all in favor, motion carried.
3. **270665**- Commissioner Simpson made the motion to deny. Commissioner Cline 2nd. Having all in favor, motion carried.
4. **270667**- Commissioner Simpson made the motion to approve. Commissioner Disney 2nd. Having all in favor, motion carried.

Executive Director Comments

Director Astorino welcomed everyone. He stated that they had their instructions regarding the return to the building. He and GC will return on the July 6th. The rest of the staff will return intermittently the following days. Everyone will be in place by Friday the 9th, and ready for their first in office staff meeting in over a year.

It will be hard to conduct in person meetings in the beginning, rooms that had been used in the past are booked by other agencies. Still waiting on final guidance regarding travel. This does impact Arello, since no one will be able to attend in person from the KREA agency.

There is a reciprocity with Florida on the agenda today for the Commission's approval. Currently working on reciprocity agreements with Indiana and Illinois.

We have not heard anything back from Missouri or Virginia. North and South Carolina are both

recognition states. Because of that, not sure what we can do there in regards to reciprocity agreements.

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 currently waiting on the KYR demographic report.

Form Subcommittee

General Counsel presented the following updates to the Forms as submitted.

1. **KREC Form 400: A Guide to Agency Relationships** - Commissioner King made the motion to approve form 400 as submitted. Commissioner Carter 2nd. Having all in favor, motion carried.
2. **KREC Form 401B: Agency Consent Agreement Commissioner** - King made the motion to approve form 401B as submitted. Commissioner Disney 2nd. Having all in favor, motion carried.
3. **KREC Form 401S: Agency Consent Agreement** - King made the motion to approve form 401S as submitted. Commissioner Disney 2nd. Having all in favor, motion carried.
4. **KREC Form 402: Seller's Disclosure of Property Conditions** - King made the motion to approve form 401S as submitted. Commissioner Disney 2nd. Commissioner Carter voted 'nay'. Motion carried.

These forms will now be placed on KREC's website, and the Commission requests licensees and members of the public provide comments on the forms prior to the next KREC meeting in July.

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 C.J. a license.
2. To approve M.S. a license.
3. To approve T.W. a license.
4. To approve J.M. a license.
5. To defer A.P. until applicant has a Principal Broker.

6. 20-KREC-004 – Approve the proposed Recommended Order provided to the Committee, which revises the Hearing Officer’s Recommended Order.

This is a license denial appeal that went to a Hearing. The Hearing Officer recommended to affirm the Commission’s denial. It is now back before the Commission as a Recommended Order.

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. **19-C-095** – Complainant claims that they purchased a second-floor condominium and since learned that when it rains, their balcony leaks significant amounts of rainwater to the condo directly below. Complainant claims these issues were an ongoing problem between the previous owner of her condo (the seller) and the property owner on the lower floor. They claim the Respondents were aware of the leaking issues, including the leaking and damage to the condo below, and the seller did not disclose this issue on the Seller’s Disclosure form.

It appears the sellers attempted to disclose the issue with the balcony by checking “Yes” to issues with the exterior and reporting the balcony had been replaced. It appears they and Respondents engaged in significant effort to ensure the balcony was appropriately repaired before sale and, up to and including closing day, they had not experienced or been notified of additional issues with the balcony.

The Commissioners believe Respondents satisfied their duties and did not violate KRS 324.160. **The Committee recommends to the full Commission to dismiss the complaint.**

2. **19-C-100** – The Complainant claims he was approached by an agent interested in buying property where his gym was located. The agent was a member of a church, which wanted to buy the property. Complainant claims part of the negotiated deal included a non-disclosure agreement, which Respondent and the church subsequently violated when it publicized the sale of the property immediately after purchase. Complainant claims he sustained significant damages to his business as a result, and alleged Respondent committed violations.

The evidence establishes Complainant knew of the alleged violations, at the latest, in January 2017, well beyond the then-existing two year statute of limitations. **The Committee recommends to the full Commission to dismiss the complaint because it was filed more than two years after Complainant knew of the cause of action.**

3. **21-C-003** – The Complainant filed this complaint against his condo association management company and claims that they failed to make the residents aware in December 2020 of large increases to the HOA dues. Because the complaint did not state a violation against a real estate licensee or identify a licensee who allegedly committed a violation, and because KREC does not have jurisdiction over community association managers, KREC requested a sworn supplement

from complainant. Complainant did not provide one. **The Committee recommends to the full Commission to dismiss the complaint.**

4. **21-C-008** – The Complainant claims that at closing, the buyers demanded more money and then bullied him and his agent into paying it. He agreed to pay, alleging that the buyers threatened to back out of the deal if the amount was not paid. When asked for additional information through a request for sworn supplement to order to establish a prima facie violation against a licensee, Complainant failed to provide a supplemental statement. **The Committee recommends to the full Commission to dismiss the complaint.**
5. **21-C-009** - The Complainant claims to be a tenant of a house listed for sale with the Respondent. She claims the Respondent would not give her 24 hours' notice before bringing someone to see the house. In addition, Complainant claims Respondent harassed her to move out sooner than previously agreed. When asked for additional information through a request for sworn supplement to attempt to establish a prima facie case, Complainant failed to provide a supplemental statement. **The Committee recommends to the full Commission to dismiss the complaint.**
6. **J.W. Unlicensed Brokerage Response Letter** – The subject broker, J.W., had been suspended from practice for three years for licensing law violations beginning in October 2020. Evidence was discovered the broker may still be engaged in brokerage activity, but this proved to be unfounded. However, social media sites (Facebook, LinkedIn), association webpages, and brokerage web pages continued to suggest the broker was an active licensee. The Commission sent a cease and desist letter to the principal broker and suspended broker demanding they immediately cease from such activity and provide an explanation as to why that information continued to appear on certain sites. Both the principal broker and suspended broker immediately complied, removed the remaining information cited by the Commission, and explained some of it was due to an old website for a realtor association, while other was simple oversight by the principal and suspended broker. Based on the principal and suspended broker's responses to the Commission's cease and desist letters, **the Committee recommends to the full Commission that no further action needs to be taken at this time.**

Pending Actions

7. **19-C-098** - **The Committee recommends to the full Commission to refer the case for further investigation.**
8. **19-C-102** - **The Committee found evidence of violations and recommends a formal reprimand, a \$500 fine, and 6 hours of CE in Advertising in addition to existing CORE requirements against the first Respondent (H.S.) The Committee recommends to the full Commission to dismiss the complaint against the second Respondent, K.G., who did not appear to have any involvement with this property.**
9. **19-C-103** - **The Committee recommends to the full Commission to refer the case for further investigation.**

10. **19-C-104** –The Committee found evidence of violations and recommends a formal reprimand, a \$1000 fine per violation, and 6 hours of CE in law in addition to existing CORE requirements. Recovery Fund is at issue.
11. **20-C-002** - The Committee recommends to send the complaint to Respondent for a sworn answer.
12. **20-C-003** - The Committee found evidence of violations and recommends a formal reprimand, a \$500 fine, and 6 hours of CE in advertising in addition to existing CORE requirements.

A cease and desist letter will be sent to the Respondent’s wife regarding her conduct bordering on unlicensed brokerage.

Executive Session Legal Matters and Case Deliberations

At 10:32 a.m. Commissioner Disney made a motion to enter executive session, pursuant to KRS 61.810(1)(c) and (j), and KRS 61.815 to deliberate on individual adjudications and to discuss 5 new applications and the 20-KREC-004 Recommended Order reviewed by the ARC, and the 12 above CRC case recommendations as offered by Commissioner Simpson:

- | | | |
|------------|------------|--------------------|
| • 19-C-095 | • 19-C-104 | • 21-C-009 |
| • 19-C-098 | • 20-C-002 | • J.W. Unlicensed |
| • 19-C-100 | • 20-C-003 | Brokerage Response |
| • 19-C-102 | • 21-C-003 | Letter |
| • 19-C-103 | • 21-C-008 | |

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

Reconvene Open Session and Committee Recommendations

Commissioner Simpson motioned for the Commission to come out of executive session and Commissioner Disney 2nd the motion. Commission Chair Disponett resumed the full Commission meeting at 11:13 a.m. and welcomed everyone back attending the teleconference Commission meeting.

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

Commissioner Disney made the motion to approve the **20-KREC-004 - Recommended Order**. Commissioner Cline 2nd the motion. Having all in favor, motion carried.

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

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

Public Comment

Chairperson Disponett opened the floor for public comments.

Tom Cox asked to speak to the Commission. He does not believe the forms will protect the public as presumed, but only offers additional work for the brokers and agents. It is difficult for brokers to keep up with all the forms now being required by the Commission. He doesn't believe that brokers are always treated fairly. Principal brokers are your friends. He feels that brokers are held to a higher level of accountability where the agents are not.

Cathy Corbett asked to speak to the Commission. She stated that the Consumer's Guide provided a lot of what was being asked for on part A of the two Agency Consent forms. She wants to ask the Commission to reconsider. She wants to know how an agent is going to explain this to a seller/buyer when they first met them at the property that they have traveled from out of state to buy or sell within the day. Not everyone is available to meet weeks in advance.

There were no additional comments or questions for the Commission at this time.

Legal Report

Docket Update

General Counsel thanked Brian Travis and Angie Reynolds for all their hard word on the docket. GC recently filed a Notice of Administrative Hearing for our largest case(s). The Hearing Office has been assigned and has acknowledged receipt of the case(s). Though it is a process, we are optimistic that there will be a good outcome and that the victims will receive compensation for their losses.

There were 12 cases on the docket today. The majority appear to be concerning complaints with evidence of violations. We are continuing to work through the docket, we are getting closer to being current. There are only two cases remaining from 2019 that have not had further action recommended, and we are currently working through 2020.

The Commission is considering changes to its Regulations, in addition to the revision of the 400 forms. All of which will need to be approved and submitted to Legislative Research Committee (LRC) for the official process. This will involve a formal hearing and public comment period. So that anyone who hasn't had a chance to make a comment they will be able to do so then.

Licensee LLC Issue

GC recently received a question asking if a licensee can be paid as a Corporation or a LLC. The previous opinion of the Commission is that we only license individuals and not companies. Under Kentucky license law only an individual licensee can be paid a commission. GC agrees with this opinion. Many licensees have been advised by their accountants to establish an S Corps or LLC for more favorable tax credits. Many want to know if the company can be paid directly. The answer is yes and no. A check can be made payable to a licensee's LLC but the 'pay to line' must also contain the licensee's name, DBA (doing business as) and the S Corps, LLC, or Inc. name last. The individual agent's name does have to be on the check first. In addition, it is a good idea to check with the agent's E&O insurance carrier to make sure that the licensee is covered by the policy or if additional coverage is needed for the S Corp or the LLC.

New Business

Insurance Initiative – Linda Rice, Rice Insurance, asked to discuss the advantages and disadvantage of going from a one year to a two year renewal E&O policy. The benefit of a two year renewal is that it can coincide with the licensing term. If alternated it can cause some confusion among the licensees. Other insurance carriers may not offer a two year policy. In addition there could be issues for licensees that transfer thru reciprocity.

Director Astorino stated that he has had a conversation with the current provider and was told that they could provide a two year policy. This is a proposal to change the bid requirement and not to execute three additional one year renewal periods. As of right now licenses renew bi-annually and insurance renews annually. Ms. Carlin and her staff can testify that this past March was a stressful period because despite notices on the website and email blasts, still there were almost 5000 people that had not renewed their insurance. Nonrenewal of insurance will cause a cancellation. Even after excessive amounts of work and care by the staff about 800 licensees were canceled due to nonrenewal.

According to Ms. Carlin in the past KREC would collect for both the license and E&O insurance renewal – now KREC only collects for the license renewal and the insurance must be paid directly to the insurer. She believes this may have confused some of the licensees. Some of the licensee do not understand that paying your license and E&O insurance are two different things. Going to a two year insurance renewal may help make things easier for licensees as we continue with the bi-annual license renewals.

Director Astorino stated that if the Commission adopts this proposal the only thing that would change would be the renewal term. It would go from annually to bi-annually to correspond with the licensing term. If adopted we can align those by next March. If not, we will continue to renew via the one year term (for the next three years as per agreement). It will be another six years before the renewal periods will align together again.

GC added that he thought this was a good idea for a number of reasons. From a legal stand point, when the statutes were changed in 2018 to a bi-annual licensing period it references a bi-annual E&O policy. GC can only assume that the Commission had meant to rebid the contract at that time but for reasons unknown it never happened. Adoption of this would make it current with the statute reference and would make it easier on staff. There was an outpour of frustration from licensees when they found out they couldn't renew both at the same time. To align them would make it so much easier. The drawback is licensees would have to pay more at once, but the premium hasn't been increased, so it will just be double their normal one year payment.

Commissioner King made the motion to request bids for two year E&O insurance proposals to go from one year to two year renewals as to coincide with the bi-annual license renewal. Commissioner Simpson seconded the motion. All in favor, motion carried.

Florida Reciprocity –

Director Astorino has been working with Florida for five months. They finally sent their approval to us on Wednesday morning. Unfortunately we were not able to get this into the board packet until today. Florida has already approved and signed it, it just needs our approval.

Commissioner King made a motion to approve the Florida reciprocity agreement. Commissioner Sickles seconded the motion. All in favor, motion carried.

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 June 14, 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 Disney made a motion to approve the per diem for Commissioners Simpson and Commissioner King for the attendance of the June 16, 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.
3. Commissioner Simpson made a motion to approve the per diem for Commissioners Disney and Commissioner Sickles for the attendance of the June 16, 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.
4. Commissioner King made a motion to approve the per diem for the June 17, 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.

Arelo

Arelo is scheduled for the end of the month. They will be conducting most of the meeting in person, unless you cannot attend virtual would be allowed. Participating KREC staff will only be allowed to attend virtually.

Meeting Adjournment

The next KREC meeting will be July 15, 2021 at 9:00 a.m. for the regular meeting. Watch for a zoom link.


Approve

Commissioner King made a motion to adjourn the meeting. Commissioner Simpson seconded. Having all favor, the motion carried and the meeting adjourned at 12:45 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 June 17, 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 7-12-21