



Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

PUBLIC PROTECTION CABINET

Kentucky Real Estate Commission

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Ray A. Perry
SECRETARY

Robert L. Astorino, Sr.
EXECUTIVE DIRECTOR

Kentucky Real Estate Commission

Special Meeting

DATE: August 2, 2022

TIME: 9:30 a.m.

LOCATION: PPC Conference Room 127CW

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

Commission Members Present

Commissioner Chair, Lois Ann Disponett
Commissioner Larry Disney
Commissioner James Simpson
Commissioner James King
Commissioner Raquel Carter
Commissioner Jennifer Brown-Day
Commissioner Anthony Sickles

KREA Staff

Robert Astorino, Executive Director
Molly Cassidy, General Counsel
René Rogers, Legal Counsel
Hannah Carlin, Deputy Executive Director
Brian Travis, Investigator
Terri Hulette, Executive Administrative Secretary
Angie Reynolds, Administrative Specialist III
Aaliyah Boller, KREC Intern

Guests Present

Ron Bossart
Ken Warden
Janice Wilson
Sue Ann Collins

Douglas Meyers
Jocelyn Graddock
Marie Estep
Joyce Sterling

Kim Whalen
Nicole Knudtson

Call to Order and Guest Welcome

The Kentucky Real Estate Commission Public Comment Hearing meeting was called to order through video teleconference by Commission Chair, Lois Ann Disponett, at 9:30 a.m. on **August 2, 2022**. Roll call was taken, and a quorum was present. Guests in attendance were welcomed and introductions of guests, staff, and Commissioners were made.

Executive Session Legal Matters and Case Deliberations

At 9:31 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 discuss and deliberate on an individual adjudication matter concerning an unlicensed real estate brokerage issue.

Commissioner Sickles seconded the motion and the Commission entered into executive session discussion.

Reconvene Open Session and Committee Recommendations

Commissioner Disney motioned for the Commission to come out of executive session. Commissioner Carter seconded the motion. Commission Chair Disponett resumed the full Commission meeting at 9:41 a.m. and welcomed everyone in attendance back to the teleconference Commission meeting.

Regarding the unlicensed real estate brokerage issue, Commissioner Carter made a motion to send a Cease & Desist letter and to file an official complaint as discussed in executive session, Commissioner Day seconded the motion. All in favor, motion carried.

Public Comments and Discussion of Statement of Consideration for Amendments to 201 KAR 11:121.

- **“Seller’s Disclosure of Property Condition,” Form 402.**

1. **Comment:** Don’t remove unknown box.

Commissioner Disney made a motion to adopt the commenters’ request. King seconded the motion. Commissioners Carter and Simpson opposed. Having the majority in favor, the motion carried.

2. **Comment:** Add darker boxes where it asks for explanations.

- 1b, 1c, 1f, 2j, 2k, 2l (two places), 3b2, 3b4, 3b5, under 3f3, 4a, 4d, 4f, under 4h, 5b, under 5c, 7a, 8a7, 8b (three spots), under 8c, 10a2, 10a3 (three spots), 10e, 11e2, 11g2, 12d, 12e, 12g, and under 13.

Commissioner Sickles made a motion to deny the commenter’s request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

3. **Comment:** Section 4a & 11e2 – Remove n/a, yes, no

Commissioner Carter made a motion to adopt the commenters’ request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

4. **Comment:** Make “explain” bold and Section 4 (Roof): delete question e and f.
Commissioner Disney made a motion to adopt the commenter’s request to make “explain” bold and to deny request to delete subsections (e) and (f). Commissioner Sickles seconded the motion. Having all in favor, the motion carried.
5. **Comment:** Page 5, fourth line from bottom, a period “.” is missing at the end of “Property form” sentence. Response:
Commissioner Day made a motion to adopt the commenter’s request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.
6. **Comment:** Consumers don’t like the refusal to sign section that would allow them to get out of answering questions, they would prefer to answer.
Commissioner King made a motion to deny the commenters’ request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.
7. **Comment:** Would like to see added: preliminary disclosure, miscellaneous or disinformation – are there human remains of any form buried on property being sold. - Appreciate leaving out the unknown.
Commissioner Sickles made a motion to deny the commenter’s request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.
8. **Comment:** 1.a. Maybe include an “if No” option? Seller Could then put how they came to sell the property (like estate sale) or what it was used for (flip, rental, etc.).
Commissioner Carter made a motion to deny the commenter’s request. Commissioner Day seconded the motion. Having all in favor, the motion carried.
9. **Comment:** 1.c. There are a few inconsistencies with how this form is laid out. I think it might be better to have an “explain at the bottom of each section and in this case have an “if yes, please indicate which applies.”
Commissioner Carter made a motion to deny the commenter’s request. Commissioner Day seconded the motion. Having all in favor, the motion carried.
10. **Comment:** 1.d. If yes, length of time rented.
Commissioner Day made a motion to adopt the commenter’s request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.
11. **Comment:** Footer: Most documents show page number on the righthand side or directly in the middle. I would move initial to the lefthand side in order to accommodate changes to page number and version locations. In most other documents, the version information is provided on the bottom of the lefthand corner. Might be good to move this just to be consistent.
Commissioner Carter made a motion to adopt the commenter’s request. Commissioner Day seconded the motion. Having all in favor, the motion carried.
12. **Comment:** 3.b.2) Here is another example of inconsistent language (could be “if so, when did the basement last leak”)

Commissioner Carter made a motion to adopt the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

13. **Comment:** 4.a. Inconsistent with other areas in the form asking age (like 2.j-2. l). I would suggest "age of roof"

Commissioner Carter made a motion to deny the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

14. **Comment:** 4.f. I would try to find a way to have this on the same page as its parent question.

Commissioner Carter made a motion to adopt the commenter's request. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

15. **Comment:** 6.d. this question seems redundant to 6.c.

Commissioner Carter made a motion to deny the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

16. **Comment:** 7. It might be nice to have a "utilities" section and then list all of the different types of utilities and request the utility company for each service. I think this piece is great! But with how it is laid out, it's easy to miss. I don't think that I have ever seen this piece filled in, I think it may be for that reason.

Commissioner Carter made a motion to deny the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

17. **Comment:** 11.a. the verbiage may need to include something along the lines of "this does not include current functional propane and/or septic tanks"

Commissioner Carter made a motion to deny the commenter's request. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

18. **Comment:** 11.e.2. This is more of a "write a description question" vs the typical checkbox answers. Or you could maybe provide option like 1.c. (above normal range, at normal range or below normal range)

Commissioner Carter made a motion to deny the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

19. **Comment:** The first version layout is much better – I don't think we should have this signature block on separate page. Maybe they can have checkbox option to select how the form was completed to save room?

Commissioner Carter made a motion to deny the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

- **"A Guide to Agency Relationships," Form 400.**

1. **Comment:** Need enough room to fill in the Company Name where it requests a Company Name.

Commissioner Disney made a motion to adopt the commenter's request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

2. **Comment:** Where it says Seller, change to Seller/Landlord. Where it says Buyer, change to Buyer/Tenant.

Commissioner Simpson made a motion to deny the commenter's request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

3. **Comment:** Don't want to change.

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

4. **Comment:** Want shorter form. Delete "this is not a contract" (second time). Does not state purpose of the form which is to provide information

Commissioner Carter made a motion to deny the commenter's request to shorten the form and delete the second "this is not a contract." Commissioner Day seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to adopt the commenter's request to include language stating that the form is "for informational purposes only" on the "Guide to Agency Relationships" Form 400. Commissioner Day Seconded the motion. Having all in favor, the motion carried.

5. **Comment:** Want to keep current form.

Commissioner Carter made a motion to deny the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

6. **Comment:** Paragraph 2: LOVE the intent here and the attention to the eye (and the description of what information needs to go in the blanks) it would be nice if the parentheses detail was placed properly next to the blank line though.

Commissioner King made a motion to deny the commenter's request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

7. **Comment:** Paragraph 5: See recommendation as in paragraph 2

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

8. **Comment:** Paragraph 8: This paragraph seems a little odd to me. Every other description only has "____ agency" – this is the only description that has "____ agent." I think that the description of the agent relationship for designated agency is portrayed well enough in its description below. I feel it should be one way or the other (1) Each agency description should be accompanied by an agent description OR (2) leave the agency description only since the agent relationship is described within it

Commissioner King made a motion to deny the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

9. **Comment:** Remove the underline on line 12.c of the "Seller's Disclosure of Property Condition" Form 402.

Commissioner Carter made a motion to adopt the commenters request. Commissioner Day seconded the motion. Having all in favor the motion carried.

- **“Agency Consent Agreement – Buyer”, Form 401B.**

1. **Comment:** Need enough room to fill in the Company Name where it requests a Company Name.

Commissioner Disney made a motion to adopt the commenter’s request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

2. **Comment:** Don’t want to change.

Commissioner King made a motion to deny the commenter’s request. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

3. **Comment:** Add option to disclose prior contact with a former prospective client who is involved in the presently contemplated real estate transaction (as stated in 201 KAR 011:121 Section 6 (2)(e))

Commissioner Carter made a motion to deny the commenter’s request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

4. **Comment:** Part A – delete “check one”

Commissioner Disney made a motion to deny the commenters’ request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

5. **Comment:**

- Page 1, line 14, “/ lessor(s)” should probably be “/ lessee(s)”
- Page 1, line 19, “LESSE” should be “LESSEE”
- Page 1, line 20, “LESSE” should be “LESSEE”
- Page 1, line 27, there should be a space between “AND” and “PRINCIPAL”
- Page 2, line 1, there should be a space between “and” and “they”
- Page 2, line 4, there should be blank lines between “Agent(s)” and “and” and between “and” and “will”
- Page 2, line 14, there should be a space between “The” and “other”
- Page 2, line 15, there should be a space between “information” and “provided”
- Page 2, line 20, there should be a space between “the” and “duties”
- Page 2, line 21, there should be a space between “so” and “directed”
- Page 3, line 1, there should be a space between “carefully” and “read”
- Page 3, line 6, there should be a space between “agency” and “or”

Commissioner King made a motion to adopt the commenters’ request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

6. **Comment:**

- Part A difficult to implement
- Need somewhere to show change of agency
- Two different forms saying seller is retaining an agent – should be retaining a broker
 - o Should be clear that services are being provided by agent but retained by broker

- Add transactional brokerage and underrepresented party to all sections of form.

Commissioner Carter made a motion to deny the commenters' request to add language to show a change in agency relationship on the "Agency Consent Agreement -- Buyer" Form 401B. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

Commissioner Disney made a motion to adopt the commenters' request to change retained agent to retained Principal Broker on the "Agency Consent Agreement – Buyer" Form 401B. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to adopt the commenters' request to add additional language for transactional brokerage and underrepresented party on the "Agency Consent Agreement – Buyer" Form 401B. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

7. **Comment:** Add option to disclose prior contact with former prospective clients.

Commissioner King made a motion to deny the commenters' request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

8. **Comment:** Due to the description listed above next to "Part A" these two options don't make sense. There is not an offer at this point, therefore there is only the agent and the buyer/lessee. In order for either of these two options to take place, there would need to be another represented party and at this point there wouldn't be.

Commissioner Carter made a motion to deny the commenters' request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

9. **Comment:** Most other forms only have two signature lines – it seems odd to have a third signature line on this form. Some parts of the form are separated on different pages when they should be listed together, so this may be one way to condense the form.

Commissioner Simpson made a motion to adopt the commenter's request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

10. **Comment:** I LOVE that this [LICENSEE'S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION] has its own separate section; however, with it being close to the end it might be easily missed unintentionally. I might suggest moving it under the property address under part B, or at least somewhere near the beginning of that section

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

11. **Comment:** DISCLAIMER: I think it's necessary to have this on the same page as the rest of the paragraph below

Commissioner Carter made a motion to adopt the commenter's request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

- **"Agency Consent Agreement- Seller" Form 401S**

1. **Comment:** Need enough room to fill in the Company Name where it requests a Company Name.

Commissioner Carter made a motion to adopt the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

2. **Comment:** Don't want to change.

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

3. **Comment:** Add option to disclose prior contact with a former prospective client who is involved in the presently contemplated real estate transaction (as stated in 201 KAR 011:121 Section 6 (2)(e))

Commissioner King made a motion to deny the commenter's request. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

4. **Comment:** Part A – delete “check one”

Commissioner Carter made a motion to deny the commenter's request. Commissioner Day seconded the motion. Having all in favor, the motion carried.

5. **Comment:**

- Page 1, line 15, “buyer(s)” should probably be “seller(s)”
- Page 1, line 17, there should be a space between “agency” and “or”
- Page 1, line 26, there should be a space between “AND” and “PRINCIPAL”
- Page 2, line 16, the first box has a line through it
- Page 2, line 21, there should be a space between “provided” and “the”
- Page 2, line 31, under Section IV, re: “the Unrepresented Party” boxed line, is NOT also on KREC Form 401B. This may be intentional or an oversight

Commissioner Day made a motion to adopt the commenter's requests. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

6. **Comment:**

- Part A difficult to implement
- Need somewhere to show change of agency
- 2 different forms saying seller is retaining an agent – should be retaining a broker
- Should be clear that services are being provided by agent but retained by broker
- Add transactional brokerage and underrepresented party to all sections of form.

Commissioner Carter made a motion to deny the commenter's request to add language to show a change in agency relationship on the “Agency Consent Agreement - Seller” Form 401S. Commissioner King seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to adopt the commenter's request to change retained “agent” to retained “Principal Broker” and additional language for transactional brokerage and underrepresented party on the “Agency Consent Agreement - Seller” Form 401S. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

7. **Comment:** Due to the description listed above next to “Part A” these two options don't make sense. There is not an offer at this point, therefor there is only the agent and the

buyer/lessee. In order for either of these two options to take place, there would need to be another represented party and at this point there wouldn't be.

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

8. **Comment:** Most other forms only have two signature lines – it seems odd to have a third signature line on this form. Some parts of the form are separated on different pages when they should be listed together, so this may be one way to condense the form.

Commissioner Simpson made a motion to adopt the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

9. **Comment:** I LOVE that this [LICENSEE'S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION] has its own separate section; however, with it being close to the end it might be easily missed unintentionally. I might suggest moving it under the property address under part B, or at least somewhere near the beginning of that section

Commissioner Carter made a motion to deny the commenter's request. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

- **Miscellaneous Comments**

1. **Comment:**

- Page number all pages
- Title each page
- Initial each page

Commissioner Carter made a motion to deny the commenter's request for stylistic changes by adding title to each page and to add initial lines on each page of the proposed form. Commissioner Day seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion adopt the commenter's request for stylistic change to add page numbers to all pages of the proposed form. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to deny the commenter's other two requests to title and initial each page. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

2. **Comment:**

- Page 3 line 13 the last word should be "broker" not "client"
- Page 5 line 21 the correct spelling of the legal term is "curtesy" not "courtesy"

Commissioner Disney made a motion to adopt the commenter's requests. The Commission will amend the administrative regulation and the accordingly. Commissioner King seconded the motion. Having all in favor, the motion carried.

3. **Comment:**

- Page 5, Line 12. (c) First and last name of the principal broker and or the full name...
- Page 13, Line 17. (5) The principal broker, _? _ an affiliated licensee...

Commissioner King made a motion deny the commenter's request to change page 5, line 12 to state "First and last name of the principal broker and or the full name..." in 201 KAR 11.121 Section 11. Commissioner Carter seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to adopt the commenter's request to change page 13, line 17 to state "The principal broker, _or_ an affiliated licensee..." in 201 KAR 11.121 Section 11. Commissioner King seconded the motion. Having all in favor, the motion carried.

4. Comment:

- The licensee being retained is (name of licensee- should be name of Principal Broker) of the (name of company) brokerage firm. Affiliate will be working directly with you as an agent of the Principal Broker.
- Have forms for buyers/sellers/landlords/tenants

Commissioner Carter made a motion to deny the commenter's request to have forms for buyers/sellers/landlords/tenants. Commissioner King seconded the motion. Having all in favor, the motion carried.

Commissioner Disney made a motion to adopt the commenter's request to change name of "licensee" to name of "Principal Broker" and to change name of "company" to "brokerage firm" on the Agency Consent Agreement – Buyer Form KREC 401B. Commissioner King seconded the motion. Having all in favor, the motion carried.

5. Comment: Don't strike section 201 KAR 011:121 Section 6 (2)(e).

Commissioner Simpson made a motion to deny the commenter's request. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

6. Comment: Want shorter versions of documents

Commissioner Carter made a motion to deny the commenter's request. Commissioner Simpson seconded the motion. Having all in favor, the motion carried.

7. Comment: Want shorter versions of documents

Commissioner Carter made a motion to deny the commenter's request. Commissioner King seconded the motion. Having all in favor, the motion carried.

8. Comment:

- 201 KAR 11:011
 - o Add to fiduciary duties, disclaimer requiring disclosure of any potential property defect regardless of agent's personal views of whether the disclosure is important.
- Appreciates leaving out the unknown.

Commissioner Carter made a motion to deny the commenter's requests. Commissioner Sickles seconded the motion. Having all in favor, the motion carried.

Commissioner Carter made a motion to amend the regulation based on the comments as submitted and approved by the Commission on this day. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

At this time there were no additional comments. Chairperson Disponett thanked everyone in attendance.

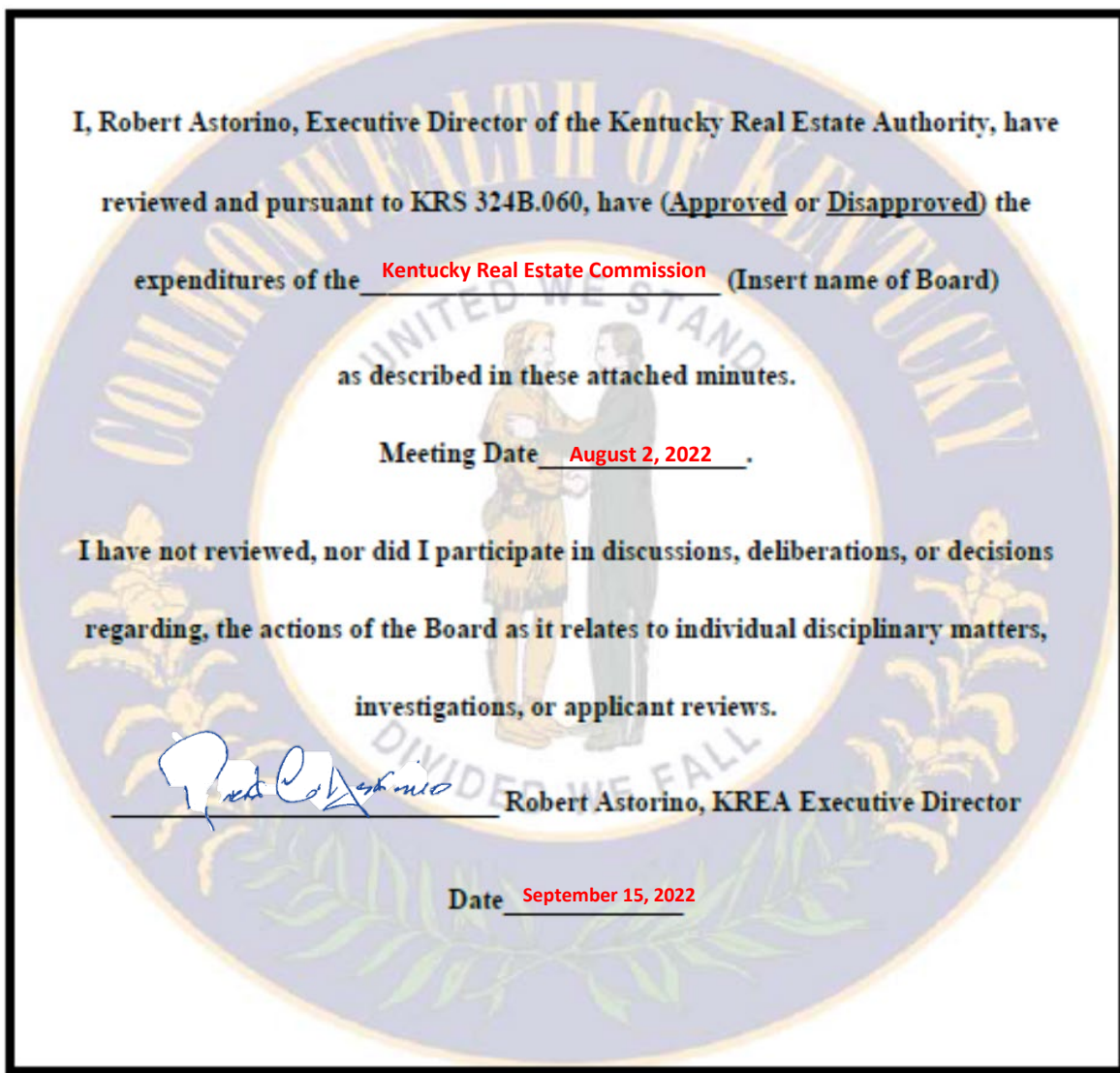
Approval Per Diem

Commissioner King made a motion to approve the per diem for the August 2, 2022 KREC Special meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Disney seconded the motion. Having all in favor, the motion carried.

Next meeting is scheduled for August 18, 2022 at 9:00 a.m. via Zoom.

Meeting Adjournment

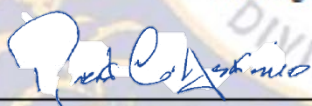
Commissioner Simpson made a motion to adjourn the meeting. Commissioner King seconded. Meeting adjourned at 11:58 a.m.



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 August 2, 2022.

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 September 15, 2022