

Kansas Association of REALTORS®

Governmental Affairs Committee and Forum

2018 Annual Conference Meeting

8:30 AM to 10:30 AM
 Monday, October 8th, 2018
 DoubleTree Overland Park, *Monterey Room*
 10100 College Blvd.
 Overland Park, KS 66210

1. Roll Call and Agreement to Conflict of Interest Policy Documents	
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8. Next Regularly Scheduled is at 9:00 AM on February 6, 2018 at the 2019 KAR Capital Conference, at the Capitol Plaza Hotel, Topeka, KS.	

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Allen County Realty Inc
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SOUTHEAST KANSAS ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member At Large
Term: 1/1/2017- 12/31/2020

Byers-Long, Jeannine

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Advantage Realty
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GREAT PLAINS ASSOCIATION OF REALTORS® INC

Zone: 3
Position: Member At Large
Term: 1/1/2016- 12/31/2018

Carson, Jeff

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: FPC - Yoder
Term: 1/1/2018- 12/31/2018

Desch, Ryan

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Stephens Real Estate Inc
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LAWRENCE BOARD OF REALTORS®

Zone: 4
Position: Member At Large
Term: 1/1/2017- 12/31/2019

Elliott, Stuart

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Realty Professionals
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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Sunflower Rep
Term: 1/1/2017- 12/31/2019

Fort, Jon

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GARDEN CITY BOARD OF REALTORS® INC

Zone: 5
Position: RPAC Chair, FPC for Marshall
Term: 1/1/2018- 12/31/2018

Grant, Gabe

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Coldwell Banker AntrimPiperWen
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GREAT PLAINS ASSOCIATION OF REALTORS® INC

Zone: 3
Position: Zone 3 Rep
Term: 1/1/2018- 12/31/2020

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member At Large
Term: 1/1/2018- 12/31/2020

Hill, Jeffrey

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Keller Williams Realty Partner
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: RPAC Vice Chair
Term: 1/1/2018- 12/31/2018

Howe, Thomas

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McGrew Real Estate Inc
1501 Kasold | Lawrence, KS 66047-1601

LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Lawrence Rep
Term: 1/1/2018- 12/31/2018

Hower, Roger

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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Chair, Member-at-Large
Term: 1/1/2016- 12/31/2018

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Reecenichols Wyandotte
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: KCRAR Rep
Term: 1/1/2018- 12/31/2020

Jones, Brian

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PITTSBURG BOARD OF REALTORS®

Zone: 2
Position: FPC - Roberts
Term: 1/1/2018- 12/31/2018

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Executive Committee Rep
Term: 1/1/2018- 12/31/2018

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PRAIRIE LAND REALTORS®

Zone: 5
Position: Member At Large
Term: 1/1/2017- 12/31/2019

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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: FPC - Jenkins
Term: 1/1/2018- 12/31/2018

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MANHATTAN ASSOCIATION OF REALTORS®

Zone: 3
Position: Member At Large
Term: 1/1/2016- 12/31/2018

Miller, Monica

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Zone 4 Rep
Term: 1/1/2017- 12/31/2019

Miller, Judy

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Zone 1 Rep
Term: 1/1/2017- 12/31/2019

Moyer, Natalie

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: RSCK Rep
Term: 1/1/2017- 12/31/2019

Nusser, Judith

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1735 E Parallel Rd | Garden City, KS 67846-8945

GARDEN CITY BOARD OF REALTORS® INC

Zone: 5
Position: Zone 5 Rep
Term: 1/1/2016- 12/31/2018

Quincy, Jon

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Berkshire Hathaway PenFed-West
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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: FPC - Estes
Term: 1/1/2018- 12/31/2018

Rost, Chris

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Coldwell Banker AntrimPiperWen
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GREAT PLAINS ASSOCIATION OF REALTORS® INC

Zone: 3
Position: FPC - Moran
Term: 1/1/2018- 12/31/2018

Schwalm, Sheila

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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Zone 2 Rep
Term: 1/1/2017- 12/31/2019

Swearingen, Crystal

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Keller Williams Diamond Part
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LAWRENCE BOARD OF REALTORS®

Zone: 2

Position: Vice Chair, Member At Large

Term: 1/1/2018- 12/31/2020

Woodburn, Todd

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4

Position: Member At Large

Term: 1/1/2017- 12/31/2019

Bonham, Susan

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Platinum Realty LLC
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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Briden, Linda

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SUNFLOWER ASSOCIATION OF REALT
2130 S W 37th Street| Topeka, KS 66611-2571

SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Broderick, Gladys

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Brown, Dave

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Berkshire Hathaway PenFed-East
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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

Burghart, Becky

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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Casey, Gradon

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Reece & Nichols Realtors
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Cunningham, Cindy

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

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Stephens Real Estate Inc
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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Eisele, Julie

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SOUTHEAST KANSAS ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

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Dean Ellner Inc., Realtors
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HAYS BOARD OF REALTORS®

Zone: 3
Position: Member
Term: 1/1/2018-12/31/2018

Garrett, Jody

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PRAIRIE LAND REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Gregory, Amber

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SOUTHEAST KANSAS ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Hess, Mark

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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

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Landmark Real Estate Center
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SOUTHWEST KANSAS BOARD OF REALTORS®

Zone: 5
Position: Member
Term: 1/1/2018-12/31/2018

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Lawrence Board Of Realtors
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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Huntington, Terrie

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ReeceNichols The Village
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Inlow, Kathy

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Midwest Land Specialists Inc
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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

Jackson, Terry

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Domicile One Realty
3527 W 100th Tr| Leawood, KS 66206

KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Kennett, Susan

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2019-12/31/2019

Kennett, Larry

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Kornspan, Steve

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Lance, Vicki

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GREAT PLAINS ASSOCIATION OF REALTORS® INC

Zone: 3
Position: Member
Term: 1/1/2018-12/31/2018

McCurdy, Stephanie

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Keller Williams Hometown Partn
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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

McKenzie, John

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Coldwell Banker Plaza Real Est
12221 E. Central| Wichita, KS 67206

REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

McMullen, Deborah

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McGrew Real Estate Inc
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LAWRENCE BOARD OF REALTORS®

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

Neighbors, Jason Taner

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Keller Williams Realty Partner
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Newell, Arlan

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J. P. Weigand - Newton
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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

Page, Carol

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

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GREAT PLAINS ASSOCIATION OF REALTORS® INC

Zone: 3
Position: Member
Term: 1/1/2018-12/31/2018

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

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SUNFLOWER ASSOCIATION OF REALTORS® INC

Zone: 2
Position: Member
Term: 1/1/2018-12/31/2018

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HAYS BOARD OF REALTORS®

Zone: 3
Position: Member
Term: 1/1/2018-12/31/2018

Suter, Nancy

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

Tobiason, Bryan

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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Vadnais, Jerry

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REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

Wenger, Sue

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1121 N College Park St Ste 700| Derby, KS 67037

REALTORS® OF SOUTH CENTRAL KANSAS, INC.

Zone: 4
Position: Member
Term: 1/1/2018-12/31/2018

West, Sydney

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Keller Williams Diamond Part
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KANSAS CITY REGIONAL ASSOCIATION OF REALTORS® INC

Zone: 1
Position: Member
Term: 1/1/2018-12/31/2018

Kansas REALTORS® Political Action Committee Ownership Disclosure and Conflict of Interest Policy

Ownership Disclosure Policy

1. If the Kansas Association of REALTORS® (hereinafter “KAR”) has an ownership interest* in any entity and a KAR member has an ownership interest* in the same entity, such KAR member shall disclose the existence of his or her ownership interest* in the entity prior to participating in any vote or discussion in an association advisory group, committee or other decision-making body on any matter directly or indirectly involving the entity.
2. If a KAR member has personal knowledge that KAR is considering doing business with an entity in which the KAR member has any financial interest** or with any entity in which the KAR member serves in a decision-making capacity, then such KAR member shall disclose the existence of his or her financial interest** or decision-making capacity prior to participating in any vote or discussion in an association advisory group, committee or other decision-making body on any matter directly or indirectly involving the entity.
3. If a KAR member has a financial interest** in or serves in a decision-making capacity for any entity that the KAR member knows is engaged in the business of offering competing products and services as those offered by KAR, then such KAR member shall disclose the existence of his or her financial interest** or decision-making capacity prior to participating in any vote or discussion in an association advisory group, committee or other decision-making body on any matter directly or indirectly involving the entity.

Conflict of Interest Policy

1. Any KAR member shall be considered to have a “conflict of interest” whenever that KAR member:
 - (a) is a principal, partner or corporate officer of a business providing products or services to KAR or in a business being considered as a provider of products or services (“business”);
 - (b) holds a seat on the board of directors of the “business” unless the individual’s only relationship to the “business” is service on such board of directors as KAR’s representative; or
 - (c) holds an ownership interest* of more than one (1) percent of the “business.”

KAR members with a conflict of interest as defined above must immediately disclose their interest at the outset of any discussions by an association advisory group, committee or other decision-making body pertaining to the “business” or any of its products or services. Such KAR members may not participate in the discussion relating to that “business” other than to respond to questions asked of them by other members of the body. Furthermore, no member with a conflict of interest may vote on any matter in which the member has a conflict of interest, including votes to block or alter the actions of the body in order to benefit the “business” in which they have an interest.

* “Ownership interest” is defined as the “cumulative holdings of the member, the member’s spouse, children, siblings and to any trust, corporation or partnership in which any of the foregoing individuals is an officer or director, or owns, in the aggregate, at least fifty percent (50%) of the: (a) beneficial interest (if a trust); (b) stock (if a corporation); or (c) partnership interests (if a partnership).”

** “Financial interest” means “any interest involving money, investments, credit or contractual rights.”

Kansas Association of REALTORS®

Governmental Affairs Committee

Statement of Organization and Procedure

The Governmental Affairs Committee is a committee created under Article IX, Section 1 of the Bylaws of the Kansas Association of REALTORS®.

Section 1 – Composition

The Governmental Affairs Committee shall be composed of twenty-seven (27) voting REALTORS® selected on the following basis:

- One (1) REALTOR® from each of the five (5) zones (who may also be from one of the four largest Local Boards);
- One (1) REALTOR® from each of the four (4) largest Local Boards;
- Nine (9) REALTORS® selected on an at-large basis by the President-Elect of the Kansas Association of REALTORS®;
- Six (6) REALTORS® who are Federal Political Coordinators;
- One (1) REALTOR® from the Executive Committee; and
- Kansas RPAC Trustees Chair and Vice Chair.

Section 2 – Terms

- A. The Executive Committee representative, RPAC Trustees Chair, RPAC Trustees Vice Chair and Federal Political Coordinators shall each serve one-year terms that will coincide with the year during which they serve in their respective offices.
- B. The committee members from the zones, the at-large committee members and the committee members from the four largest Local Boards shall each serve three-year staggered terms.
- C. No committee member shall serve more than two (2) consecutive three-year terms, with the exception of the committee members serving as Chair and Vice Chair, whose term on the committee shall be extended, coincident with the completion of their respective terms as Chair and Vice Chair. A committee member may serve a third successive term of three (3) years if there are no other qualified and willing candidates for the position.

Section 3 – Selection

- A. When there is a vacancy in one of the zone or Local Board positions on the committee, the President of the Kansas Association of REALTORS® shall appoint a REALTOR® from the designated area to fill the vacant position.
- B. The KAR President-Elect shall appoint the at-large committee members. The KAR President-Elect shall appoint the Chairperson and Vice Chairperson of the committee each year.
- C. In the event any committee member shall die, become disabled, be removed, or resign, the KAR President shall appoint a REALTOR® to serve the remaining portion of the term for the vacant position.
- D. Any REALTOR® appointed to fill a vacant zone or Local Board position on the committee shall be eligible to serve two (2) full three-year terms in addition to any portion of the term left by the vacancy to which they are appointed.

Section 4 – Responsibilities

- A. To investigate and evaluate all legislative and regulatory issues that may affect, enhance or impact the real estate industry and make recommendations for introduction of legislation in such areas. To investigate, evaluate and support or oppose legislation, regulations or ordinances that affect the real estate industry and/or the membership of the Association. The committee shall submit all recommendations to the Executive Committee and/or Board of Directors for the approval of all such policies, positions and/or actions.

- B. Committee members from each zone may be responsible for establishing effective relationships with Zone Vice Presidents on legislative and regulatory matters affecting Local Boards within that zone.
- C. The committee shall be responsible for establishing an effective relationship with the Kansas Real Estate Commission and support the Commission in its efforts to improve and implement Kansas license law, rules and regulations.
- D. Committee members may be asked to appear before the Legislature to support or oppose bills and may be asked to contact members of the Kansas Legislature in regard to action on pending bills.
- E. The committee shall oversee the education and mobilization of KAR members on REALTOR® policy priorities at the federal, state and local levels.
- F. The committee shall facilitate and monitor the participation of KAR members in Calls for Action on federal and state REALTOR® issues.
- G. The committee will oversee and coordinate all other grassroots political activities of the association.

Section 5 – Meetings

- A. The Committee shall meet at the regularly scheduled meetings of the KAR Board of Directors, and such times as called by the Chair.
- B. The Vice President of Governmental Affairs shall serve as a staff liaison and will keep the meeting minutes.
- C. A quorum of at least fourteen (14) committee members must be present to constitute a quorum and conduct business.
- D. A majority vote of the committee members present shall be required for action on all committee matters.
- E. Any committee member who has two (2) unexcused absences in a calendar year shall automatically and without any action of the Governmental Affairs Committee be dismissed from the committee.

Kansas Association of REALTORS®
Governmental Affairs Forum
Statement of Organization and Procedure

Section 1 – Responsibilities

The Governmental Affairs Forum is to provide an opportunity for the communication, sharing of ideas and discussion of concerns regarding governmental affairs, legislative and regulatory issues between association members, local board representatives and the Governmental Affairs Committee. Forum concerns will be referred to the Governmental Affairs Committee or any other appropriate committee for consideration and possible action.

Section 2 – Composition

The composition of the forum is open to any KAR member.

Section 3 – Meetings

The Forum shall meet at the regularly scheduled meetings of the KAR Board of Directors immediately preceding the Governmental Affairs Committee. The KAR Vice President of Governmental Affairs shall serve as staff liaison.

Kansas Association of REALTORS®
Governmental Affairs Committee Meeting Minutes
Summer Study

10:00 AM – 2:00 PM

Tuesday, September 11th, 2018

Kansas Museum of History
6425 SW 6th Avenue
Topeka, KS

Committee Members Present:

John Brocker

Jeannine Byers-Long

Jeff Carson

Ryan Desch

Stuart Elliot

Jon Fort

Gabe Grant

Dee Grisamore

Jeff Hill

Thomas Howe

Roger Hower

Ed Jaskinia

Brian Jones

Andrew Mall

Michael McGrew

Monica Miller

Judy Miller

Natalie Moyer

Eileen Myer

Judith Nusser

Chris Rost

Sheila Schwalm

Crystal Swearingen

Todd Woodburn

Committee Members Absent:

Jeff Hill

Jon Quincy

Marsha McConnell

Guest Present:

Jamie Sauder

Scottie Broderick

Call to Order of Governmental Affairs Committee

Governmental Affairs Committee Chair Roger Hower called the meeting of the Governmental Affairs Committee and Forum to order at 10:00 AM.

Review of Ownership Disclosure and Conflict of Interest Policy

Chair Hower reviewed the Ownership Disclosure and Conflict of Interest Policy with the committee members. No committee members declared a conflict of interest during the meeting.

Review of Government Affairs Committee's Statement of Organization and Procedure

Chair Hower reviewed the Government Affairs Committee's Statement of Organization and Procedure with the committee members.

Approval of Previous Meeting Minutes

The minutes from the February 7, 2018 Government Affairs Committee meeting were reviewed by the committee members. It was **moved** by Rost, seconded and carried to approve the minutes from February 7, 2018.

Review of 2018 Legislative Policy Statement

KAR Vice President of Governmental Affairs, Patrick Vogelsberg, reviewed the 2018 KAR Legislative Policy Statement on pages 13-16 of the meeting packet. Vogelsberg indicated that the 2019 KAR Legislative Policy Statement would be finalized at the next Government Affairs Committee (GAC) meeting in October.

Update on Ongoing Legal, Legislative and Regulatory Issues

Chair Hower recognized Vogelsberg to give an update on Kansas legal, legislative, and regulatory issues.

Itemized Deductions

Vogelsberg reviewed the history of the Kansas itemized deductions and efforts during the 2018 legislative session to pass legislation allowing Kansans to itemize regardless of whether they took the standard deduction or itemized on their federal filing. A background briefing was provided in the meeting packet on pages 17-27. Vogelsberg also briefed the committee on preparations for a possible Issues Mobilization campaign during the 2019. After discussion, consensus was to proceed in developing an Issues Mobilization campaign with NAR, which would be reviewed and recommended, if possible, at the October GAC meeting.

City of Mission Driveway Tax

Vogelsberg provided an updated on the litigation regarding the City of Mission's transportation utility fee contained on page 28-29 of the meeting packet.

Rebates

Vogelsberg provided an update (page 30-33 of the meeting packet) on the rebate issue that is currently the subject of a pending Kansas Attorney General's Opinion.

Advertising

Vogelsberg reported on the KAR Advertising Task Force recommendations regarding amendments to K.S.A. 58-3086 as briefed on pages 34-39 of the meeting packet. The Task Force recommended that, at minimum, the broker's name on an advertisement be at least 50% of the size of the individual, team, or group name; and that any legislation be would not be effective for a year after enactment. After discussion, it was **moved** by Rost, seconded and carried to adopt the Task Force recommendations as the GAC's recommendation.

Rural Housing Incentive Districts

Vogelsberg provided a briefing (contained on pages 40-42) regarding rural housing incentive districts (RHIDs). Guest Jamie Sauder addressed the committee and provided background on his experience with RHIDs and the opportunity they can provide to rural areas in developing new housing construction. Sauder requested that the committee consider supporting legislation that would extend the bond limitations on projects that is currently at 15 years. Sauder suggested that if the 15-years limitation was extended, it could make more projects financially viable. After discussion, it was **moved** by Byers-Long to have KAR meet with the Kansas Department of Commerce and any other stakeholders to discuss the extension of the payback period for RHID.

Service Animals

Vogelsberg provided a briefing (contained on pages 43-47) on the issue of housing providers being required to provide reasonable accommodation to individuals with disabilities who need disability-related service animals and emotional support animals. The Kansas Manufactured Housing Association (KMHA) provided draft legislation that it intends to introduce during the 2019 session. After discussion, it was **moved** by Rost, seconded and carried to support KMHA's efforts to pass legislation clarifying requirements for making a request for reasonable accommodation for an assistance animal and provisions that would penalize individuals who misrepresent entitlement to an assistance animal.

Broker Experience Requirements

Vogelsberg provided a briefing (contained on pages 48-62) regarding proposed statutory changes to broker pre-license experience and education requirements. After discussion, it was **moved** by Monica Miller, seconded and carried to (1) support the increase from the current 24 hours to 60 hours as proposed in the draft on page 54 of the meeting packet, but inform the commission that increasing hours to 90 hours would be supported by KAR;

and (2) to support the change to the requirement that an applicant for broker's license be actively engage in real estate for a period of two years during the previous three years, rather than the previous five years as provided in the draft on page 51 of the meeting packet.

Home Inspector Regulation

Vogelsberg provided a briefing (contained on page 63-69) regarding home inspector regulations in Kansas that expired on July 1, 2013. Stuart Elliot requested that the committee consider pursuing legislation that would resurrect these regulations. After discussion, it was **moved** by Rost, seconded and carried for KAR to pursue legislation the same or similar to the previous home inspector regulations that were in effect prior to July 1, 2013.

Additional Issues Put for by Committee Members

Chair Hower asked for any additional issues put forth by the committee. Vogelsberg mentioned that he had recently had a meeting with representatives from the Kansas Land Title Association and Kansas Register of Deeds Association regarding predictable (flat) recording fees. Vogelsberg indicated that he would continue to dialogue with these groups and provide further information at the next meeting. Furthermore, Vogelsberg briefed the committee on candidate for Kansas Governor Kobach and his proposal to limit appraisals for property taxes to every three years, instead of every year, and cap valuation increases to 3% per year. Vogelsberg indicated that the November election would likely have a significant impact on whether this proposal would have traction in the 2019 legislative session.

Local REALTOR® Matters

Chair Hower asked if there were any local REALTOR® matters to discuss. Dennis Clary, Government Affairs Director for the REALTORS® of South Central Kansas briefed the committee on recent developments in Wichita regarding mini-home developments.

Meeting Packets

Chair Hower recognized Vogelsberg, who asked the GAC if there would be objection to moving to paperless meeting packets. Vogelsberg indicated that a PDF would still be sent in advance of meetings and it would be made available online, but printed packets would be discontinued. There being no objection, paper packets will be discontinued.

Adjourned

There being no further business, Chair Hower adjourned the meeting at 1:30 PM.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Kansas Itemized Deductions; 2019 Issues Mobilization Campaign.

Recent History of Kansas Itemized Deductions

In 2012, as part of the early tax packages that were recommended by the administration at the time, the Kansas itemized deductions were slated for full repeal. Kansas REALTORS® strongly objected and the Legislature responded by preserving these tax benefits for Kansas homeowners.

During the 2013 legislative session, the Kansas Legislature enacted HB 2059, which made number of significant changes to Kansas itemized deductions. Of these changes were systematic reductions, or “haircuts”, to these historic deductions. Under 2013 HB 2059, MID and PTD deductibility were as follows: 100% in tax year 2012, 70% in tax year 2013, 65% in tax year 2014, 60% in tax year 2015, 55% in tax year 2016, 50% in tax year 2017 and 50% in tax year 2018. The intent was that as individual income tax rates stepped down, the MID and PTD would as well. This was a hard fought alternative to immediate loss of these important deductions.

Tax legislation passed in 2015 accelerated the haircuts to 50% starting in tax year 2015, where both deductions currently stand for tax years 2017 and 2018.

However, during the 2017 legislative session, KAR sought restoration of the PTD and MID. This was based upon KAR’s growing concern that many of the tax proposals circulating at the time increased individual rates but failed to restore, even partially, either of these critical deductions.

Recognizing the State’s need for additional revenue, KAR offered a delay in restoration. The Legislature responded in passing legislation in 2017 that put both deductions, along with the medical deduction, on a path to full restoration by 2020.

Federal Tax Reform of 2017

On December 22, 2017, President Trump Signed the “Tax Cuts and Jobs Act”. As it relates to Kansas itemized deductions, federal reform modified the MID by putting a limit on deductible mortgage debt at a \$750,000 cap. Furthermore, the state and local tax (SALT) itemized deduction, which included property taxes paid on real property, was capped at \$10,000.

However, the provision affecting Kansas homeowners and their ability to deduct mortgage interest and property taxes from their Kansas income tax is the federal provision increasing the standard deduction to \$12,000 for single filers and \$24,000 for joint returns. According to the National Association of REALTORS®, by

doubling the standard deduction, Congress has greatly reduced the value of the mortgage interest and property tax deductions as tax incentives for homeownership. Congressional estimates indicate that only 5-8% of filers will now be eligible to claim these deductions by itemizing, meaning there will be no tax differential between renting and owning for more than 90% of taxpayers.

Based upon IRS data from 2016, nearly 250,000 Kansans took the Mortgage Interest Deduction (MID) and over 300,000 claimed the Property Tax Deduction (PTD). Of the 729,000 owner occupied houses in 2016, 60% had a mortgage.

It is important that Kansas homeowners continue to be able to claim these deductions regardless of whether they are in a position to itemize federally. If the Legislature does not modify Kansas law, a significant number of Kansans will lose the tax relief the Kansas itemized deductions afford.

2018 Legislative Efforts

A critical requirement in Kansas income tax law is that a Kansas tax filer must itemize federally in order to take the state itemized deductions. This requirement was put into place for simplicity for the taxpayer in reporting the amounts and the Kansas Department of Revenue in auditing.

The value of the state level deductions was thrown into jeopardy when federal tax reform passed in December, 2017. A significant part of federal reform was the doubling of the standard deduction. It has been estimated that more than 90% of taxpayers will take the standard deduction on their federal returns. For Kansas taxpayers, the result is the inability to claim the state-level deductions on their Kansas income tax returns, unless, the Legislature amends the law and allows itemization regardless of the federal filing.

Several bills were introduced to do just that during the 2018 session and KAR provided testimony in the House and Senate, in addition to launching an all member call for action at the beginning of April. Ultimately, the necessary provision made its way into a large tax package, Senate Substitute for HB 2228.

S. Sub. for HB 2228 included various provisions regarding income tax, sales tax, and motor fuel tax. In addition to removing the restriction on state-level itemization, the bill would have accelerated restoration of itemized deductions. The bill would have accelerated these deductions to 75% of the federal allowable amount beginning in tax year 2018 and 100% beginning in tax year 2019 (charitable contributions are currently and will remain at 100%).

Throughout the session there seemed to be general consensus to at least allow Kansans to itemize regardless of their federal filing. However, in the last days of the session, concerns were raised regarding the overall fiscal note, specifically with how to treat certain foreign income. Earlier in the session it was felt that certain foreign income, now available to be taxed, could be used as revenue to offset the individual deductions and act as a cash windfall for the state. In the last week of the session, uncertainty on just how to treat the foreign income created hurdles that lawmakers perceived as insurmountable.

S. Sub. for HB 2228 passed the Senate [21-19](#) but failed on the House floor [59-59](#) (needed 63 votes).

In failing to pass this legislation, a significant number of Kansans who previously benefited from income tax relief by itemizing deductions on Kansas returns will no longer be able to do so because they will not itemize at the federal level. Whether intended or not, the result is an income tax increase, specifically on Kansas homeowners who claimed the mortgage interest and property tax deductions in years past.

Some lawmakers felt that the fiscal impact to the state, both positive and negative, was too uncertain to move forward in 2018. Provisions in the tax bill unrelated to itemized deductions were seen as poison pills that lawmakers were unwilling to overlook.

Many legislators feel that 2019 will be the year to restore these deductions after the state has a year to review the implications of federal tax reform passed in late 2017. Regardless, KAR should pursue the restoration of the itemized deductions in 2019 and ask for expedited advancement of a clean bill.

2019 Plan; Issues Mobilization Requests

KAR should pursue passage of legislation during the 2019 Session that would allow Kansas income tax filers the ability to take itemized deductions regardless of whether they itemize or take the standard deduction on their federal filing.

To assist in this effort, KAR has continues discussions with NAR staff regarding a possible Issues Mobilization Campaign during the 2019 Session. NAR provides Issues Mobilization Grants to support state and local REALTOR® Associations to enable them to organize and manage effective campaigns to promote positions on public policies that affect REALTOR® interest. KAR has previously conducted Issues Mobilization Campaigns – most recently in 2016 for the public vote requirement on property taxes.

Currently, for Issues Mobilization Request between \$25,000 and \$1 million, NAR requires a 25% “skin in the game” contribution from the association making the request.

As an example, in 2016, for the KAR property tax public vote campaign:

- The total campaign budget was \$296,000;
- The NAR Issues Mobilization Grant was \$236,000;
- KAR provided \$60,000 (skin in the game).

Before moving forward with a 2019 campaign, KAR will have a fully developed campaign, a budget with estimated cost for each element of the campaign, and timeline for action.

KAR Issues Mobilization Process

The KAR Issues Mobilization Committee is made up of the KAR GAC, with the exception that the Chair and Vice Chair are swapped.

Pursuant to the Issues Mobilization Committee SOP, all recommendations for expenditures from the Issues Mobilization Fund shall be made to the KAR Executive Committee for review. The KAR Executive Committee shall review these recommendations and, when appropriate, forward all approved recommendations to the KAR Board of Directors.

All recommendations for expenditures from the Issues Mobilization Fund must be reviewed by the KAR Board of Directors. Any proposed expenditures from the Issues Mobilization Fund must be approved by a majority vote of the directors present at that meeting of the KAR Board of Directors.

If any recommendations for expenditures from the Issues Mobilization Fund are approved by the Issues Mobilization Committee at any time other than within two weeks prior to a regularly scheduled KAR Board of Directors meeting, the KAR Executive Committee shall have the authority to review and approve the

recommendations for expenditures by a two-thirds vote of those Executive Committee members present at that meeting.

It is our plan now, that the KAR application to NAR will be reviewed by the NAR Issues Mobilization Committee at the REALTOR® Party Training Conference in Minneapolis on November 28th. The final deadline for applications to be in for consideration at this meeting is November 19th.

Previous GAC Review

At the September 11, 2018 GAC meeting, the GAC was briefed on this issue and a potential Issues Mobilization campaign in 2019. After discussion, consensus was to proceed in developing an Issues Mobilization campaign with NAR, which will be reviewed and recommended by GAC to the KAR Executive Committee.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Update on Driveway Tax Lawsuit - *Heartland Apartment Association, Inc. vs. City of Mission, Kansas*

Background Briefing

In August 2010, the City of Mission adopted an ordinance that created and imposed a “transportation utility fee” on the owners of all developed real property within the City of Mission. In doing so, the city’s stated justification was to provide revenue to “adequately fund full maintenance of the city’s streets.” As a result, the clear intent behind the city’s adoption of the “fee” was to create a new revenue source for city’s transportation spending.

Immediately after the enactment of the ordinance, the legality of the ordinance was challenged by a lawsuit filed by the Alliance Defense Fund against the City of Mission. Since the charge was imposed against churches and religious institutions under the ordinance, the Alliance Defense Fund argued that the charge violated the state’s prohibition against the imposition of taxes against religious institutions.

Several months after the Alliance Defense Fund filed its lawsuit, we worked with the organization to amend their initial complaint to also allege that the transportation utility fee was an illegal excise tax, which cities cannot impose under K.S.A. 12-194. Before the case was scheduled to go to trial in Johnson County District Court, the city settled the lawsuit with the Alliance Defense Fund and exempted churches and religious organizations.

Following the settlement, Kansas Attorney General Derek Schmidt issued Attorney General’s Opinion 2012-45 that concluded that the transportation utility fee was in fact an excise tax prohibited by K.S.A. 12-194. After the issuance of the opinion (which is not binding on the courts), the Heartland Apartment Association and a group of property owners in Mission filed the current lawsuit against the City of Mission in Johnson County District Court.

The Johnson County District Court originally ruled that the transportation utility fee was in fact a tax, but the court also concluded that it was not an illegal excise tax and that the City of Mission could continue to impose the charge.

Following the district court ruling, the plaintiffs appealed the case to the Kansas Court of Appeals. In July 2015, the Kansas Court of Appeals ruled that the transportation utility fee was a prohibited excise tax. This ruling basically followed the exact reasoning laid out in our amicus brief submitted to the Kansas Court of Appeals.

City of Mission filed a Petition for Review asking the Kansas Supreme Court to review the Kansas Court of Appeal’s ruling and overturn the Court of Appeal’s ruling in favor of the plaintiffs. The Kansas Supreme Court granted this review and the litigation is currently pending review in front of the Kansas Supreme Court.

On April 7th, 2017, the Kansas Supreme Court issued its opinion in *Heartland Apartment Association v. City of Mission, Kansas*. The Court ruled that the City of Mission's imposition of a "transportation utility fee" (TUF) on developed property was an unlawful excise tax under Kansas law. The case has been remanded back to Johnson County District Court where on July 10th, 2017 the District Court granted partial summary judgement that the TUF is an impermissible excise tax.

The issue that remains to be litigated is whether the City of Mission will be required to pay back TUF payments made by its citizens. In a memorandum before the District Court, the City of Mission is arguing that no refunds are required because no party to the case paid the TUF "under protest" which requires a specific form to be filed by the taxpayer. On the contrary, plaintiffs are arguing that because the TUF was found to be an illegal tax, Mission is required to refund the fees paid and Mission's arguments regarding payment under protest are not supported by Kansas law.

On May 21, 2018 Judge Vano invalidated both of Mission's arguments, but requested further arguments from the parties regarding whether the unconstitutional payments were voluntary or involuntary.

The last proceedings on the issue was a hearing on August 29th, 2018. Judge Vano has scheduled a trial on the remaining issues for January 7th in Johnson County District Court.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Rebates in Real Estate Transactions

Background Briefing – Regulatory Definition of Rebates.

Kansas is one of ten states that ban rebates in real estate transactions. The others are Alabama, Alaska, Iowa (when two or more brokers are used), Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Oregon, and Tennessee.¹

The statute states:

Prohibited acts. (a) No licensee, whether acting as an agent, transaction broker, or a principal, shall...(3) [a]ccept, give or charge any rebate or undisclosed commission.

Furthermore, K.S.A 58-3062(a)(4) goes on to state that it is unlawful for a licensee to:

Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the Kansas or out-of-state licensee.

The Legislature has not provided in statute a definition of “rebate.”

History of Rebate Prohibition in Kansas

The Kansas real estate brokers' and salespersons' license act (KREBSLA)² was first discussed in 1979 with the introduction of 1979 SB 198. This legislation was put forth by the Kansas Real Estate Commission and the Kansas Association of REALTORS®. This legislation did not pass in 1979, but was sent for further study by the Special Committee on Federal and State Affairs during the summer of 1979.

After study, the legislation was reintroduced in the 1980 Legislative Session as 1980 SB 519. Both 1979 SB 198 and 1980 SB 519 contained a prohibition on rebates in real estate transactions. Unlike the statute as it exist today, the language as introduced read, “No licensee shall:...[a]ccept, give or charge any undisclosed commission or rebate.” It was only after amendment in committee that “rebate” was moved ahead of the

¹ The U.S. Department of Justice Anti-Trust Division has a section of their website dedicated to rebates in real estate transactions: <https://www.justice.gov/atr/rebates>.

² K.S.A. 58-3034 through 58-3085.

term “undisclosed” in the statute, making rebates illegal regardless of whether they were disclosed or undisclosed.³ Ultimately, 1980 SB 519 passed in the 1980 Session and was enacted into law.⁴

When the prohibition on rebates was expanded in 1989 to reference the payment of referral fees as we see today in K.S.A. 58-3062(a)(4), the Kansas Legislature did not see the need to define “rebate”.⁵ Furthermore, no legislative intent on what is or is not a rebate can be gleaned from reviewing the testimony and committee minutes from the 1979 and 1980 Kansas Legislative Sessions as KREBSLA was being worked on at the Legislature.

In 2004 the prohibition on licensees offering prizes, gifts, and gratuities was repealed. As a result, the question of what constituted a permitted gift or gratuity and what constituted an illegal rebate arose. To give the industry guidance, KREC issued non-legally binding guidance on the subject which indicated that anything of value provided to a principal in a real estate contract under 0.5% of the purchase price would not be considered a rebate.

However, KREC revised its guidelines for permissible gifts and gratuities effective August 29, 2016. In doing so, the Commission eliminated the previous 0.5% threshold for rebates (anything under 0.5% of the purchase price of a home would not be considered a rebate).

Regulatory Approach

It is apparent that the lack of a precise definition of “rebate” as it pertains to KREBSPLA has left many in the industry without clear legal parameters as to what the Commission would consider an illegal rebate and what would continue to be considered a permissible gift or gratuity. With this in mind, the Commission requested their legal counsel to draft a proposed regulation that would define “rebate” as it pertains to K.S.A. 58-3062(a)(3) and (4).

At the 2017 KAR Capitol Conference, the GAC reviewed this draft and raised no objection to it at that time. Over the first half of 2017, the draft regulation advanced through the regulatory approval process, which requires approval by the Kansas Department of Administration and Attorney General, as well as review by the Joint Committee on Administrative Rules and Regulations of the Kansas Legislature.

KREC held a public hearing on the proposed regulation on June 19th, 2017. At the public hearing representatives from USAA, Cartus, and various brokerage offices appeared in person raising concerns about the proposed regulatory definition, specifically the breadth. Furthermore, the U.S. Department of Justice Antitrust Division sent the Commission a letter, objecting to the language in the draft regulation. The Commission ultimately decided to table consideration of the regulation until their next meeting on August 28th, 2017. During this time, KAR GAC and Executive committees reviewed the proposed regulatory definition and reaffirmed KAR’s support.

At the October 2017 KREC meeting, the Commission decided to indefinitely table the proposed regulation defining “rebate” and instead pursue the legislative option of a definition in statute. At the KAR Annual Conference GAC meeting, the GAC decided to pursue a statutory definition when appropriate.

At the December KREC meeting, the Commission decided to hold off on introducing legislation and instead pursue a Kansas Attorney General’s Opinion on whether a hypothetical scenario of a referral fee being paid to

³ Minutes from Kansas Federal and State Affairs Committee, March 6th, 1980.

⁴ 1980 Kan. Sess. Laws Ch. 164 §29 (codified today at K.S.A. 58-3062(a)(3)).

⁵ 1989 Kan. Sess. Laws Ch. 167 §7.

a third party licensee where a principal in a transaction then received a gift card from the third party or a closely affiliated entity would violate the prohibition on rebates. The formal request for the AG's opinion will not occur until the February KREC meeting. This means that any AG's Opinion is unlikely to be available until late spring or early summer at the earliest – after the 2018 Legislative Session.

KAR Discussions with USAA

Throughout this time, KAR has had ongoing discussions with representatives from USAA and KREC to discuss possible approaches. USAA's preference was for a full repeal of the prohibition on rebates or a definition that would clearly allow USAA to continue to provide gift cards to USAA members who use a USAA broker in a transaction. As what could be classified as a "final and best offer", USAA offered a compromise where the term "rebate" would be defined in statute, but distinguish undisclosed and disclosed rebates, where disclosed rebates would be permitted. Again, current Kansas law does not distinguish between disclosed and undisclosed rebates – all rebates are illegal.

USAA's legal counsel reduced this concept into draft amendments to K.S.A. 58-3035 and K.S.A. 58-3062 (attached). K.S.A. 58-3035 is the definitions section of KREBSLA and a new definition for "rebate" is including in subsection (n).

(n) "Rebate" means the return of all or part of any commission or compensation paid to a licensee and any transaction that has as its purpose, the purchase of real estate at a price difference from the price specified in the closing statement.

This definition of "rebate" is pared down from the previous versions that were circulating when KREC was attempting to provide the definition in regulation and is arguably more consistent with the traditional definition of the word.⁶

K.S.A. 58-3062(a)(3) and (4) would also be amended by adding the term "undisclosed" in front of "rebate." This would make rebates in real estate transactions legal in Kansas as long as they are disclosed. Rebates would be treated the same as commissions. See below:

(3) Accept, give or charge any *undisclosed* rebate or undisclosed commission.

(4) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a *an undisclosed* rebate by the Kansas or out-of-state licensee.

This was brought to the KAR Executive Committee, which determined that the KAR GAC should review and provide a recommendation.

2018 HB 2494

Throughout this process, KAR, KREC and USAA have had discussions about a possible mutually agreeable resolution. However, when the 2018 legislative session started, USAA opted to introduce HB 2494.

⁶ "Rebate" has been defined as, "[a] return of part of a payment, serving as a discount or reduction." Black Law Dictionary 1381 (9th ed. West 2009). Another definition is, "a refund or deduction of part of a payment, price, or charge." Merriam-Webster Dictionary, Rebate, <https://www.merriam-webster.com/dictionary/rebate#legalDictionary> (accessed August 24, 2017).

The KAR Government Affairs Committee (GAC) was briefed on HB 2494 at the KAR Capitol Conference. The KAR GAC felt it was premature for the Legislature to pursue HB 2494 until the Attorney General's Opinion was issued. Both the KAR GAC and Board of Directors voted to oppose HB 2494.

At a hearing before the House Commerce, Labor and Economic Development Committee, KAR provided opposition testimony. First, KAR advised the Legislature that any consideration of this issue is premature until the Attorney General's Opinion on the matter is issued. This is not likely to occur until after the 2018 Session. KAR believes that the Attorney General's Opinion will provide guidance to both the interested parties and the Legislature as to what changes, if any, are needed to KREBSLA.

Second, KAR believes that if any legislative solution is seriously considered at present, that solution is to define the term "rebate" only and not upend decades of policy by making illegal rebates, legal. If the Legislature chose to pursue this path, KAR suggest that the previous proposed regulation would be a guide.

Lastly, HB 2494 is too limited in view as it does not consider the full impact to KREBSLA. In order to avoid statutory conflict and unintended consequences, if the Legislature opens KREBSLA up, it must be circumspect in its approach. Significant technical issues with the bill will need to be addressed.

Specifically, it would need to be clear who is responsible for making the disclosure. Is this the licensee whose client is receiving the rebate or the licensed out-of-state third party who is using a referral fee to pay the rebate? Further, what accountability should be considered in legislation for the licensed out-of-state third party? KREC has no jurisdiction over out-of-state licensees in such a matter. If the out-of-state licensee failed to perform, the apparent recourse for an aggrieved Kansas consumer would be against the Kansas licensee.

How about the manner of the disclosure? Should this be on a separate form or part of the sales contract? The timing of the disclosure - at the time of offer or closing? The substance of the disclosure (the amount of rebate and who is it paid to – buyer or seller)? Lastly, what consideration should be given to whether the current prohibition on paying a commission or compensation to unlicensed individuals (including buyers and sellers) would need to be accommodated for when considering that proceeds of a commission will be used to pay for the rebate?

As one can see, many considerations still need to be deliberatively pursued. KAR has had ongoing discussions with interested parties on this issue since the summer of 2017 and we expect to have continued, positive dialogue as we seek the mutual desire of bringing clarity to the issue of rebates.

In February, KREC formally requested the Kansas Attorney General's opinion. That opinion is still pending.

HB 2494 was not worked in the House committee and a similar Senate bill, SB 425, did not receive a hearing in Senate Commerce. SB 425 was version is largely a similar to HB 2494 in legalizing disclosed rebates. SB 435 definition mirrored the draft regulation defining "rebate" that was proposed by KREC (and supported by KAR). SB 425 also specified the timing and manner of the disclosure in either the purchase agreement or listing agreement or addenda thereto. However, the bill failed to address KAR concerns regarding out of state licensees providing rebates and their lack of accountability to Kansas law.

Moving Forward

Our hope is that the Attorney General's Opinion will provide guidance to the interested parties and the Legislature as to what changes, if any, are needed to license law. KAR GAC can reevaluate its position once the Attorney General's Office has issued its opinion on the matter.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Advertising

Background

Throughout late 2017 and 2018, the Kansas Real Estate Commission (KREC) has engaged with the Kansas Association of REALTORS® (KAR) in a dialogue regarding the current advertising laws for Kansas real estate licensees.

Prior to the October 2017 KAR Government Affairs Committee (GAC) meeting in Topeka, KREC requested KAR feedback on a draft amendment to K.S.A. 58-3086 relating to advertising of salesperson, associate broker and team names. While this was a preliminary draft, the proposed amendment generally resulted from the Commission's concern with names that could be confused with a registered company name or imply that the salesperson's company, team or team leader was that of the broker.

It is important to note that Kansas is a jurisdiction that does not regulate teams specifically. Teams in Kansas are regulated by existing laws and rules on supervision and advertising.

Currently, the Kansas real estate brokers' and salespersons' license act (KREBSLA) provides that:

...[A]ll advertising conducted by a licensee shall: (A) Be conducted under the direct supervision of the supervising broker or branch broker; (B) include the name of the supervising broker's trade name or business name by prominently and conspicuously displaying or announcing the supervising broker's trade name or business name in a readable and identifiable manner; and (C) include any other information that the supervising broker or branch broker considers necessary.¹

In addition, K.S.A. 58-3086(d) states:

If authorized by the supervising broker or the branch broker, an employed or associated salesperson or associate broker may include in the advertisement: ... (2) a name or team name which cannot be construed as a supervising broker's trade name or business name; (3) a slogan which does not include terms that are confusing to the public or which cannot be construed as a supervising broker's trade name or business name; and (4) a domain name or website which does not include terms that are confusing to the public or which cannot be construed as a supervising broker's trade name or business name.

¹ K.S.A. 58-3086(b).

In the original draft provided by KREC, language was added at the end of subsection (d) paragraph (2) which would enumerate specific prohibited language in the name as well as restricting the size of the name on the advertisement as it relates to the supervising broker name on the advertisement. The draft stated:

an employed or associated salesperson or associate broker may include in the advertisement ...
a name or team name which cannot be construed as a supervising broker's trade name or
business name-, which does not use the terms "realty", "real estate", "brokerage," "company,"
or other terms that can be construed as a separate real estate company, and is not greater in
size and visibility than the name of the supervising broker's trade name or business name;

In October 2017, the KAR GAC recommended that the term "real estate" be stricken from the draft amendment so that individuals and teams could continue to use the term "real estate" in conjunction with their company or team name. The Commission was subsequently advised and accommodated this request by striking "real estate" from the draft legislation.

In recent years, a few states have started to regulate teams with team-specific statutes and regulations², however most states apply existing license law to teams (the current Kansas approach). Most of the team-specific regulations center on how teams advertise to the public in order ensure that the team cannot be confused with the actual supervising broker. Maryland has the most stringent requirement for teams in that Maryland law requires team leaders to have certain qualification and defines the legal obligations of the team leader, team members, the broker and the branch office manager.

Nebraska, in addition to advertising requirements, requires that list of team leaders and members be maintained by the supervising broker. Additionally, team leaders, team members and designated brokers who supervise teams are required to complete continuing education requirements specific to teams. Further, Nebraska requires the broker's name be adjacent to the affiliated licensee's name on all advertisements and the broker's name be similar or greater in size and visibility than the affiliated licensee's name.

While informally discussed at KREC, there are no current proposals, either statutorily or regulatory, that would regulate teams specifically in Kansas.

As mentioned, KAR has provided periodic feedback to KREC on various iterations of the draft amendment. KREC held off on legislation during the 2018 Legislative Session, to give more time for KAR to consider changes.

During that time, the KAR office received some additional concerns regarding the size of the salesperson/team name or logo. In the draft, the salesperson or team name cannot be of greater size and visibility than the supervising broker's trade name or business name. The specific concern with this is the associated cost with updating advertising.

At the February KAR GAC meeting, there was some discussion regarding the size of the trade or business names. KAR GAC asked that the KAR President appoint a task force to study the issue and provide feedback to the GAC.

² See generally. Md. Code Ann., Bus. Occ. & Prof. §§ 17-543 to -548 (2010); Colo. Code Regs. § 725-1, E-8 (2014); 02-039-410 Me. Code R. §§ 1, 4-A, 13 (2009); N.Y. Comp. Codes R. & Regs. tit. 19, § 175.25(E) (2014); Ohio Admin. Code 1301:5-1-21 (2012); Okla. Admin. Code § 605:10-9-4(b)(3)(D), (F) (2010); Wash. Admin. Code 308-124B-210 (2010); La. Admin. Code tit. 46:LXVII, §§ 1901, 1903, 1907, 1909, 1911 (2014); Neb. Rev. Stat §81-885.24(32), 81-885.56, 81-885.01(9), 81-885.01(10) (2016); and 299 Neb. Admin. R. & Regs. 2-003, 2,014, 7-001(c), 7-001.03 (2017).

Task Force Recommendations

A task force of KAR members was appointed. The task force met via conference call on August 29th, minutes of which are included in this meeting packet.

The task force is recommending that at minimum the broker name be at least 50% of the size of the individual, team, or group name. Furthermore, the task force recommended that any changes to the law not go into effect for one year after enactment. Assuming this legislation would be passed during the 2019 Legislative Session, the law would not go into effect before July 1, 2020.

Previous GAC Action

At the September 11, 2018 GAC meeting, the Task Force recommendations were considered and the GAC recommended that a statutory minimum be pursued that requires the broker's name on an advertisement be at least 50% of the size of the individual, team, or group name; and that any legislation be would not be effective for a year after enactment.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Rural Housing Incentive Districts

The Rural Housing Incentive District (RHID) Act provides cities and counties a program to assist developers to build housing in rural communities by assisting in the financing of public improvements.

RHID's are authorized for cities with less than 40,000 in population, located in a county of less than 60,000 OR any county with a population of less than 40,000. The district is defined by the city or county that is establishing the district and based upon a housing needs analysis.

The RHID is formed in the following way:

1. Preparation of housing needs analysis;
2. Governing body passes resolution finding shortage of quality housing;
3. Secretary of Commerce reviews and approves housing needs analysis;
4. Governing body negotiates development agreement;
5. District boundaries are identified and development plan is prepared;
6. Governing body passes resolution calling for public hearing on district and adoption of redevelopment plan.
7. Notices are provided to local planning commission, school district, and county/city.
8. Notices are published;
9. Public hearing;
10. Governing body passes ordinance/resolution creating the RHID and adopting the redevelopment plan; and
11. 30-day protest period for school district or city/county finding the RHID will have adverse effect.

The housing needs analysis needs to show:

1. There is a shortage of quality housing of various price ranges in the city or county despite the best efforts of public and private housing developers;
2. The shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in such city or county;
3. The shortage of quality housing is a substantial deterrent to the future economic growth and development of such city or county; and
4. The future economic well-being of the city or county depends on the governing body providing additional incentives for the construction or renovation of quality housing in such city or county.

Once the RHID has been established, the governing body may proceed with issuing special obligation bonds (general obligation bonds prohibited).

The proceeds of the special obligation bonds, can be used only for:

1. Acquisition of property within the specific project area (eminent domain is prohibited);
2. payment of relocation assistance;
3. site preparation;
4. sanitary and storm sewers and lift stations;
5. drainage conduits, channels and levees;
6. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
7. street lighting fixtures, connection and facilities;
8. underground gas, water, heating, and electrical services and connections located within the public right-of-way;
9. sidewalks; and
10. water mains and extensions.

The bond proceeds may not be used for buildings or structures owned by or leased to any developer.

The RHID works by taking the incremental increases in property taxes paid over the base amount previously collected and using that property tax revenue for repayment of the bonds.

For example:

Pre-RHID the property has an *assessed value* of \$100,000 and is subject to 150 mills. The total property tax revenue is \$15,000.

After the development, the property has an assessed value of \$2.5 million and subject to the same 150 mills produces \$375,000 in property tax revenue.

The incremental increase is \$360,000 (\$375,000-\$15,000). This \$360,000 can be used to pay for the authorized cost (1-10 above).

The maximum maturity on bonds issued to finance RHID projects cannot exceed 15 years.

Recommended changes to RHID Act

RHIDs have been formed in Garden City, Great Bend, McPherson, Dodge City, and recently Emporia. It has been reported to KAR that if the bond maturity limitation could be extended 5 years, to a total of 20 years, more housing development projects would be financially viable for consideration.

Without other modifications, this change could be a simple as changing 15 years to 20 or 25 years in K.S.A. 12-5248(a)(4).

Prior GAC Action

At the September 11, 2018 GAC meeting, the GAC recommended that modification to the State's Rural Housing Incentive District (RHID) laws be pursued which would expand the payback period for financing of RHID project.

KAR has begun to reach out to other interested stakeholders, including the Kansas Department of Commerce, home builders and local government groups.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Service Animals

The Kansas Manufactured Housing Association (KAMA) has indicated plans to introduce legislation intended to deterring fraudulent request to housing providers for reasonable accommodation as it pertains to emotional support and service animals during the 2019 Session. KAR is also aware that The Associated Landlords of Kansas is interested in pursuing legislation on this issue.

The issue is not with those who legitimately rely on service or emotional support animals to assist them in daily living, but rather those that falsely claim their pet is a service or emotional support animal so that a landlord is required to allow the pet in the dwelling and common areas of the rental premises. Falsifying the disability-related need for an animal is often done in a way to get around landlord no-pet policies, size and breed restrictions or pet deposits.

Current law

Both Federal and State law speak to the allowance of service animals in housing. Kansas has what is cited to in statute as the “Kansas white cane law.” K.S.A. 39-1101 et. seq. It was originally passed in 1969 and had amendments to it in 1982 and 2003. The law is limited to “assistance dog[s]” which is defined as any guide dog, hearing assistance dog, or service dog. There is also defined a “professional therapy dog.” The main requirement for each of these is that the dog is specially selected and trained.

Those needing such dogs, have a right to be accompanied by the dog on all common carriers, places of public accommodation, and anywhere where the general public is invited. Further, those with a disability, have the right to have the dog accompany them in the purchase and use of residential housing without being required to pay an extra charge. However, the individual would be liable for any damage done to the premises or facilities by such dog.

For now, the right to be accompanied by an animal for those with a disability is limited to the aforementioned dogs. Kansas has not expanded these rights into other types of “support pets” in statute.

Federal Law, through the Fair Housing Act (FHA), is more expansive and extends to “emotional support animals,” and is not limited to just dogs. Under the FHA, a reasonable request for accommodation to a housing provider for a service animal must meet the following criteria:

- (1) The person making the request must have a disability, which is a physical or mental impairment that substantially limits one or more of major life activities; and
- (2) The person has a disability-related need for the assistance animal.

A housing provider can ask for documentation from a reliable source (physician, social worker, mental health provider) if the disability is not apparent or if the need for an animal is not apparent to be disability-related. The substantiation is not required for readily apparent disabilities, or extend to demands of medical records as proof.

A housing provider must make an exception to pet policies, unless the housing provider can show the animal presents a risk of harm to others or would create an undue financial burden. The presumption is for accommodation.

This area of law is expansive and will not be fully briefed herein, but should be noted that the FHA would be supreme to any state level enactment on the matter.

The Issue

The issue that has arisen is how to properly distinguish between service, emotional support, and assistance animals, with pets. Individuals familiar with the issue have indicated that assistive animal fraud is common due to tenants wanting to avoid pet related prohibitions, charges, deposits, and increase rent. Colorado and Virginia are examples of states that have recently passed legislation dealing with this issue.

The Colorado law lays out substantiation requirements for an individual making a request and makes it a crime to intentionally misrepresent that an animal is a service animal, or that a person is disabled.

The Virginia law establishes a process through which a person with a disability may submit a request for reasonable accommodation. In addition, Virginia lays out factors in which a request may be denied: (1) the requestor does not have a disability; (2) the requestor does not have a disability-related need for an assistance animal; (3) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (4) the accommodation would fundamentally alter the nature of the operations of the person receiving the request.

KAMA Draft Legislation

KAMA has provided a proposed draft of legislation called the, "Kansas Assistance and Service Animal Integrity Act." (attached).

In summary, the draft would require individuals seeking an exception to a landlord's policy prohibiting animals, limiting the size, weight, breed, types, or number of animals because of disability to provide written evidence to the landlord regarding the disability.

Notably, the draft legislation would make it a Class A misdemeanor to misrepresent the entitlement to an assistance animal. In addition, misrepresentation would be grounds for terminating the lease agreement under the Kansas Landlord Tenant Act.

Previous GAC Action

At the September 11, 2018 GAC meeting, the GAC recommended that KAR support efforts to pass legislation clarifying requirements for making a request for reasonable accommodation for an assistance animal and provisions that would penalize individuals who misrepresent entitlement to an assistance animal.

Proposed Kansas Assistance and Service Animal Integrity Act

An Act

Creating the Kansas Assistance Animal Integrity Act; providing definitions for assistance animal and disability; creating requirements for documentation of the need for an assistance animal in housing; and providing for the offenses of misrepresentation of entitlement to assistance animal and misrepresentation of an animal as assistance animal.

The Legislature of the State of Kansas hereby enacts as follows:

Section 1. Short Title

This act shall be known as the Kansas Assistance Animal Integrity Act.

Section 2. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Assistance animal.” An animal that qualifies as a reasonable accommodation under the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, or similar local law. This term shall include an emotion support animal when such animal qualifies as a reasonable accommodation.

“Disability.” A physical or mental impairment, which substantially limits one or more major life activities, (or as defined in K.S.A. 44-1002 and amendments thereto).

Section 3. Subject to the following a landlord shall provide a reasonable accommodation to a tenant making request for an assistance animal:

(a) A landlord who receives a request from a person to make an exception to the landlord’s policy prohibiting animals, or limiting the size weight, breed, types or number of animals on the landlord’s property, because the person requires the use of an assistance animal, may require the person to produce reliable documentation of the disability and disability-related need for the animal unless the disability-related need for an assistance animal is readily apparent or known to the landlord.

(b) If the person seeking a reasonable accommodation for an assistance animal has a disability, which is not readily apparent, that person shall provide written evidence:

- 1) describing the person’s disability-related need for the assistance animal;

- 2) from a Kansas licensed physician, psychiatrist, social worker, or other mental health professional who:
 - (i) has met with the patient in person;
 - (ii) is sufficiently familiar with the patient and the disability; and
 - (iii) is legally and professionally qualified to make the determination.
- (c) Where the disability related need for an assistance animal is not readily apparent or known to the landlord, the landlord may require the requesting party to submit on an annual basis the written evidence required in subsection (b).

Section 4. Immunity

Notwithstanding any other law to the contrary, a landlord shall not be liable for damages or injuries caused by a person's assistance animal permitted on the landlord's property as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 or any other relevant federal, State or local law.

Section 5. Misrepresentation of the entitlement to assistance animal.

- (a) A person commits the offense of misrepresentation of entitlement to an assistance animal if the person intentionally:
 - 1) misrepresents to another that a person has a disability or disability-related need for an assistance animal in housing; or
 - 2) makes materially false statements for the purpose of obtaining documentation for the use of an assistance animal in housing.
- (b) A person who violates subsection (a) of this section commits a Class A misdemeanor.
- (c) If a person commits the offense of misrepresentation of entitlement to an assistance animal the landlord may proceed with any action allowed under K.S.A. 58-2564 or K.S.A. 58-25-120.

Section 6. Misrepresentation of animal as assistance animal.

- (a) A person commits the offense of misrepresentation of an animal as an assistance animal if a person intentionally:
 - 1) Creates a document that misrepresents an animal as an assistance animal for use in housing;
 - 2) provides a document to another falsely stating that an animal is an assistance animal for use in housing; or
 - 3) fits an animal, which is not an assistance animal, with a harness, collar, vest or sign that the pet is an assistance animal for use in housing.
- (b) A person who violates subsection (a) of this section commits a Class A misdemeanor.

- (c) If a person commits the offense of misrepresentation of an animal as an assistance animal the landlord may proceed with any action allowed under K.S.A. 58-2564 or K.S.A. 58-25-120.

Section 7. Effective date



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on KREC Proposed Changes to Broker Experience

In August 2017, the Kansas Real Estate Commission (KREC) created a task force to review the current requirements for broker applications and education requirements. Over the past year, the task force met and developed recommendations for KREC to consider pursuing in statute.

The task force recommended two substantive changes:

1. **Change the look back period for broker experience in K.S.A. 58-3039(d)(1).** Current law requires that an applicant for broker license be actively engaged in real estate for a period of two years during the previous five years. The task force recommended that the look back period be reduced to three years to emphasize recent experience with real estate transactions.
2. **Enhance broker pre-license education requirements.** The task force recommended increasing the broker pre-license education hours from 24 hours to 90 hours. The 90 hours would be broken down to 60 hours of mandatory pre-license courses and 30 hours of electives on topics specialized to broker's business interest (example: specific to commercial, agriculture, residential, etc.).

Upon receiving the recommendations, KREC requested staff to further research the recommendations, specifically by gaining feedback in from real estate schools as to whether increases in education requirements could be achieved. Following these meetings, KREC staff recommended to increase current hours from 24 to 60, with 30 hours being pre-license and 30 hours required of a practice course. Furthermore, non-resident and equivalent-requirements applicants would be required to take the 30-hour practice course, in addition to the current 4-hour Kansas law course.

At the August 20th, 2018 meeting KREC received a report from its staff regarding modifications to the task force recommendations. KREC directed its staff to solicit feedback from stakeholders. The KAR GAC met on September 11th, 2018 to review the task force and KREC staff recommendations.

Moving Forward

At the September 11th, 2018 GAC meeting, the GAC reviewed this issue and recommended (1) that statutory changes be pursued to increase the number of pre-license/practice hours for broker applicants from 24 hours to *at least* 60 hours and (2) that a broker license applicant demonstrate they were actively engaged in real estate during two of the previous three years rather than two of the previous five years.

In addition to the broker experience changes, KREC staff is recommending other, less substantive changes to Kansas Real Estate Brokers' and Salespersons' License Act. Below are bullet points describing these changes:

1. Remove alternative licensing criteria for broker applicants who live in a county with a population of less than 20,000. The current allowance requires the Commission to make licensing decisions based on local market considerations, which sets it up for a *North Carolina Dental* (antitrust) violation. This exemption has not been used by an applicant in any records available to staff. See KSA 58-3039(d)(2).
2. Remove references to renewal date. It creates confusion for licensees. The expiration date would be the only reference date. See KSA 58-3045(b)(1).
3. Remove all references to temporary salesperson's licenses. See KSA 58-3039(i) and (j), 58-3045(a) and (b), 58-3046a(f) and 58-3063(a)(16).
4. Increase the late fee for a license renewed after the expiration date but before the six- month grace period ends from \$50 to \$100. See KSA 58-3045(c)(2).
5. Eliminate the language limiting what entities can offer education courses. KBOR has recently told KREC that if you don't approve "schools" in your statute than they don't have to get KBOR approval to offer pre-license education. It is costly for the schools and requires them to submit lengthy reports on things that are not important or applicable, especially schools who use a distance education format. For example, maximum capacity for fire safety and percentage of minority students. If implemented, it will open the door for more schools to register pre-license courses, and that may be a good a thing when Broker Pre-License hours increase. Students presently have just three schools to choose from. See KSA 58-3046a(h).
6. Clarify requirements for deactivation and reactivation of a license. See KSA 58-3047.
 - a. Deactivation may be initiated by either the supervising broker or the affiliated licensee upon notification to the Commission. This is current practice, but the statute is unclear on who can initiate the action.
 - b. Change term "cancelled" to "deactivated" to reflect current terminology.
 - c. Combine deactivation language currently contained in KSA 58-3047, 58-3049 and KAR 86-3-20 into one statute. KSA 58-3049 and KAR 86-3-20 can be repealed.
 - d. Remove obsolete language related to license display requirements.
 - e. Move language related to company and broker name changes to KSA 58-3060 for clarity.
7. Revise statute related to primary office. See KSA 58-3060.
 - a. Replace "principal place of business" with defined term "primary office."
 - b. Remove obsolete language related to license display requirements.
 - c. Consolidate and revise language from KSA 58-3047 related to notice to the commission of any change in supervising brokers name, business/trade name, location or the broker designated as the supervising broker of the office or closure of the primary or branch office.
 - d. Add language from KAR 86-3-6 that allows a primary or branch office to be in the residence of the primary or branch broker.
8. Delete fees that are no longer assessed through regulation. See KSA 58-3063.
9. Delete language related to prorated license fee. No longer needed it license is granted for two years from date of issuance. See KSA 58-3063(b).
10. Technical changes
 - a. Remove obsolete language related to the delayed effectiveness of the practice/law courses implemented in 2007. See KSA 58-3039(a)(3) and (4).
 - b. Clarify fingerprint fees are deposited in the background investigation fee fund. KSA 58-3039(b)(3).
 - c. To avoid confusion over when the application is considered "filed", change to "commission's receipt of the application for a..... license." See KSA 58-3046a(a) and (b).
 - d. Change "received" to "completed" related to requirements for CE submission. See KSA 58-3046a.
 - e. Clarify that KREC can publish a list of all approved courses more frequently than annually. See KSA 58-3046a.



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To: KAR Government Affairs Committee
From: Patrick Vogelsberg, VP of Governmental Affairs
Date: October 8th, 2018

Re: Background Briefing on Home Inspector Licensing

Kansas does not currently license or regulate home inspectors after the Kansas Home Inspectors Professional Competence and Financial Responsibility Act expired on July 1, 2013.

During the 2008 Legislative Session, the Kansas Legislature approved 2008 HB 2315, which established the Kansas Home Inspectors Professional Competence and Financial Responsibility Act. At that time, this legislation was supported by consumer advocates, professional home inspectors and REALTORS® with the intent of creating a limited amount of regulation over the home inspection industry.

KAR testified at the time that the passage of this legislation was a major step forward in protecting consumers from receiving home inspection services from unqualified individuals and ensuring that the home inspection industry was regulated by the state in a manner that would protect consumers. At the time it was felt that the act represented a carefully-constructed compromise to protect consumers while at the same time not unduly harming the home inspection industry.

During the 2009 Legislative Session, the Kansas Legislature enacted legislation to make several substantive and technical changes to the act based upon feedback received from members of the home inspection industry. In order to ensure that these changes did not cause unintended consequences and to ensure that the changes were reviewed again by the Kansas Legislature after several years, the conference committee inserted a sunset clause into the statute (July 1, 2013).

During the 2013 Session, legislation was supported by KAR that would have removed the sunset. It was argued by KAR that the “due diligence” period required by the sunset clause has been satisfactorily completed and it was time to remove the sunset clause and permanently extend the provisions contained in the act. A majority of the Kansas Legislature agreed at the time and voted 36-3 in the Senate and 102-17 in the House to pass 2013 SB 37. Unfortunately, Governor Brownback vetoed the bill and a veto override was not attempted.

With the change in administration, it was recommended to the GAC to examine whether to pursue this legislation again.

Prior GAC Action

At the September 11th, 2018 KAR GAC considered this issue and recommended that KAR to pursue legislation the same or similar to the previous Kansas home inspectors professional competence and financial responsibility act that was in effect prior to July 1, 2013.

KAR is working with the Kansas Association of Real Estate Inspectors in examining the prior act and discussing whether any changes are needed before reintroducing.



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To: KAR Government Affairs Committee
 From: Patrick Vogelsberg, VP of Governmental Affairs
 Date: October 8th, 2018

Re: Background Briefing on Predictable Recording Fees

Recently, KAR participated in a meeting to discuss document recording fees that are imposed when Kansans record documents with Kansas register of deeds offices. Other participants were representatives of the Kansas Land Title Association, Kansas Register of Deeds Association, Kansas Bankers Association, Kansas Bar Association

The purpose of the meeting was to discuss the possibility of converting Kansas to a “predictable recording fee” state. While states vary, predictable recording fees are largely a departure from a per page fee approach in favor of a flatter-fee structure across document types.

Coincidentally, we are having these discussions in late 2018, before the mortgage registration tax is completely phased out and repealed on January 1, 2019.

Below is the current fee schedule in Kansas.¹

Fee Schedule	Amount
For recording deeds, mortgages, or other instruments of writing-for first page (not to exceed legal size page 8 ½" x 14")	\$21.00
For second page and each additional page or fraction thereof	\$17.00
Recording town plats, for each page	\$32.00
Recording release or assignment of real estate mortgage-(per book and page released) --per physical page of document	\$16.00 +\$4.00 = \$20.00
Each additional book and page listed on Release or Assignment of real estate mortgage	\$16.00
For second page and each additional page of Release or Assignment of real estate mortgage	\$4.00

¹ <http://www.ksrods.org/fee-schedule>

Certificate, certifying any instrument of record	\$13.00
For filing liens for materials and services under K.S.A.58.201, and amendments thereto	\$17.00

At the last meeting a proposed “predictable fee schedule” was provided by the perceived proponents (KRODA and KLTA):

Fee Schedule	Amount
Mortgages; Liens; OGL Mortgages	\$350
Deeds	\$75
Plats and surveys	\$75
OGL Documents (leases, assignments, releases, etc.)	\$75
All other instruments of writing (including mortgage assignments/releases	\$75

Comparison for Recording Mortgages

It was stated at this meeting that the average mortgage in Kansas was 12 pages long. Based upon the current per page fees, it would cost \$208 to record a 12-page mortgage. Under the proposed flat fee schedule it would be \$350 (a difference of \$142 or a 68% increase).

Predictable Recording Fees in General

The Property Records Industry Association published a document providing background on predictable recording fees in March of 2017.² This document lays out the advantages with moving to predictable recording fees. Those benefits were articulated to be:

1. Reduction in errors or document rejections from shortages or overages in per page fees.
2. Savings of time and money for consumers, the recording office, and submitters (lenders, title companies, etc.).
3. Avoidance of delays in closing from needing to recalculate recording fees or re-execute disclosures.

It is true that federal laws require lenders to disclose all fees in the loan estimate. The transaction will be complicated if the fees are incorrectly calculated.

²https://www.pria.us/files/resource_library_files/Business_Processes_and_Procedures/Predictable_Fees_Background_New_Template_04_10_2017.pdf

It is clear that flat fees have some benefits and should be explored. Over a dozen states have moved to a predictable or flat fee approach to recording fees.³

However, from the discussions KAR has had, it is clear that an increase in the recording fee for mortgages of this magnitude is intended to replace the phased-out mortgage registration tax that KAR successfully advocated for repealing during the 2014 legislative session.

Prior Mortgage Registration Fee

Prior to January 1, 2015, the register of deeds offices in Kansas collected a mortgage registration fee of 0.26% of the principal secured by a mortgage. This is \$260 per \$100,000 of principal. KAR, finding that the mortgage registration fee to be burdensome, duplicative and an unfair tax on mortgages, advocated for its repeal.

During the 2014 legislative session, KAR was successful in passing legislation that phased out the mortgage tax over a period of five years. In addition, the 2014 legislation increased the per page document recording fees by \$12 per page over four years beginning on January 1, 2015. The increases in the per page filing fees were intended to provide revenue for counties to offset the loss of the revenue from the mortgage registration tax and a dedicated revenue source of \$0.50 for County Clerks and \$0.50 for County Treasurers to upgrade equipment associated with filing mortgages and other documents. Lastly, \$1 per page is dedicated to the Heritage Trust Fund.

Comparison

\$150,000 Mortgage Principle; 12 page mortgage				
	First Page	Subsequent Pages	Subtotal	Total
Current Law	\$21.00	\$187.00	\$208.00	\$208.00
Pre-2015 Per Page Fees on Mortgages	\$8.00	\$44.00	\$52.00	\$442.00
Mortgage Registration Fee	\$150,000.00	0.26%	\$390.00	
Proposed Predictable Fee on Mortgages	\$350.00		\$350.00	\$350.00

Moving Forward

Stakeholders continue to meet to discuss this issue prior to the 2019 Legislative Session.

KAR GAC should consider this issue and make a determination on whether to formally adopt a position on a predictable or flat recording fee structure or retain the per page fee structure.

³ Arizona, Idaho, Illinois, Indiana, Maryland, Massachusetts, Minnesota, New Mexico, North Carolina, South Dakota, Tennessee, Washington, D.C., Wisconsin and Wyoming.



2019 Legislative Policy Statement

Guiding Philosophy

The Kansas Association of REALTORS® has faithfully represented the interests of the nearly 10,000 real estate professionals and over 700,000 homeowners in Kansas for over 95 years. In conjunction with other organizations involved in the construction, development, housing and real estate industries, the association seeks to increase economic prosperity and quality of life through increased housing opportunities for Kansas families and a thriving investment environment for commercial real estate.

We strongly believe that REALTORS® have an important role to play in every community dealing with the challenges associated with increasing economic growth and quality of life that are important to creating and maintaining vibrant, growing communities. In the context of these challenges, we believe that homeownership and investment in commercial real estate positively impact neighborhoods, communities and the overall vibrancy and stability of the Kansas economy.

Having pledged to abide by the REALTOR® Code of Ethics, REALTORS® offer the benefits of their experience and technical expertise to the general public and government in community development discussions. As an organization and an industry, we are dedicated to working with elected officials to create better communities by supporting new economic growth opportunities and creating new housing opportunities, while vigorously protecting the rights of private property owners.

Homeownership

REALTORS® believe that the private ownership of real property is the foundation of our nation's free enterprise system and we adamantly oppose any governmental actions that discourage or diminish the ability and capacity of Kansas citizens to own private property. Homeownership is the cornerstone of the American Dream and deserves a preferred place in our system of values as it contributes to community responsibility; business, civic, and economic stability; family security and quality of life.

As REALTORS®, we reaffirm the national goal of "a decent home and a suitable living environment for every family." The Kansas Association of REALTORS®, through its members, will continue to commit ourselves to helping every single citizen who so desires to realize the America Dream of homeownership.

Development, Growth and Land Use

REALTORS® believe in the fundamental right of all private property owners working through local governments to determine the highest and best use of their land. Further, we maintain that every citizen should have the right to acquire real property with the confidence and certainty that the value of such property will not be unreasonably diminished by governmental action at any level without just compensation or the owner's express consent.

Accordingly, we are opposed to any unreasonable restrictions and radical changes in existing zoning laws where such actions significantly undermine the market value and utility of private property or the reasonable expectations of property owners. Any unreasonable restrictions on land use decrease the investment value of real estate and significantly undermine economic growth opportunities.

REALTORS® believe in reasonable community growth and maintain that no-growth policies, building moratoriums and other burdensome regulations by governmental bodies are not satisfactory responses to community development issues. We support community planning objectives and believe that the real estate community should be involved in composing such objectives.

Most importantly, REALTORS® believe it is the free market and individual choice that drives the amount and type of development and growth in a community. While we recognize the difficulty in maintaining the quality of communities through preservation of space and control of congestion, market forces should be the primary engine behind controlling economic and community growth.

Although the intent of growth management may be to improve the quality of life, unreasonable growth restraints can thwart economic development as well as artificially increase the cost of residential and commercial real estate to unaffordable and economically inefficient levels. Accordingly, REALTORS® strongly oppose all unreasonable and overly broad restraints on growth and development.

Quality of Life

REALTORS® believe that efforts to ensure quality communities must go beyond simply limiting or prescribing the manner of growth and development. Communities must actively consider other efforts that will provide citizens with a high quality of life. A high quality of life includes a strong system of public education, adequate transportation infrastructure, access to affordable health care and adequate provisions for public safety.

As REALTORS®, we realize the importance of quality public schools to the local real estate market. The quality of education in our schools has proven to be a driving force in the growth or demise of our residential and business communities. It is these communities, not merely the homes within them, which are bought and sold. As such, REALTORS® support responsible funding for public schools.

Climate Change and Greenhouse Gas Issues

As citizens, we understand there are competing viewpoints as to whether greenhouse gas emissions caused by human activities are having a demonstrable effect on the global climate. However, we are concerned that any state or local legislation or ordinances seeking to reduce greenhouse gas emissions could have a significant negative impact on the Kansas economy.

Accordingly, we oppose any proposals at the state or local level that would utilize mandates to reduce greenhouse gas emissions from the residential, commercial and industrial sectors of the Kansas economy. Even if these proposals result in reductions of greenhouse gas emissions, greenhouse gas emissions will simply shift to other states and regions of the world as the affected industries relocate.

Taxation

As citizens, REALTORS® realize the importance that many government programs play in creating a prosperous economic environment and quality of life for Kansas citizens. However, we join other citizens who have a continuing concern with the increasing cost of government programs and the overlapping of services and associated increase in costs among the local, state and federal government. Accordingly, we urge local and state governments to take immediate steps to eliminate redundant and duplicative programs and services, eliminate wasteful spending on unnecessary items and reduce the increasing burden of state and local taxation. Furthermore, REALTORS® support policies that give citizens a greater voice in decisions impacting their tax burden. As such, government leaders should put calls for increases in revenue to a public vote.

Property Taxes

REALTORS® believe that real estate is burdened with an excessive share of the constantly increasing cost of state and local government. While we realize the importance of many programs funded through property tax revenues, we believe tax revenues should be equitably collected from a variety of sources and encourage taxing jurisdictions to consider the negative impact to the housing market associated with any potential increase in property tax rates.

Real Estate Transfer Taxes

REALTORS® believe that real estate transfer taxes and fees are a major burden to both buyers and sellers of real property and are detrimental to the overall housing market and economic vitality of areas in which they are imposed.

Additionally, real estate transfer taxes are regressively burdensome to low income households, discriminatorily levied on one particular class of assets and are a volatile stream of revenue to governing jurisdictions.

Accordingly, REALTORS® oppose the establishment of real estate transfer taxes. The imposition of a real estate transfer tax would result in an immediate destabilization of the real estate market through a drastic reduction in home sales and housing prices. This destabilization of the real estate market would cause a ripple effect on communities through commensurate reductions in economic growth.

Excise Taxes/Impact Fees

REALTORS® believe impact fees and excise taxes should not hamper or deter development in our communities. We urge state and local governments to limit the use of any such fees to providing those public capital improvements that are absolutely necessitated by new development. Impact fees must be reasonably based upon the actual cost of the service upon which the fee is assessed and should be proportionate to the infrastructure and services directly related to the specific development.

Accordingly, impact fees and excise taxes should not be used to subsidize other programs and services that have no connection to the fee being imposed. The imposition of any fees should be accompanied by ordinances that define the level of service to be provided in exchange for such fees. Recognizing a desire on the part of local governments to provide services in a cost-effective manner and utilize existing infrastructure, attempts to steer development to certain areas of the community must not infringe upon private property rights.

Sales Taxes on Services

REALTORS® believe that instituting a tax on economic activity is equivalent to raising the price of the good or service and thus the demand for this good or service is reduced. Applying a sales tax to real estate related services will increase the cost of purchasing a property to businesses and would increase the cost of business for real estate professionals.

Availability and Affordability of Insurance

REALTORS® believe that all individuals should have access to adequate and affordable insurance for their businesses and property. We believe that government has a key role to play in the regulation of the insurance industry, and must keep the interest of the consumer as well as the insurance industry in mind when deciding on regulatory issues affecting the insurance marketplace.

Energy Conservation

REALTORS® encourage the owners of residential, commercial and industrial properties to investigate those methods of energy conservation and efficiency that are economically feasible over the life cycle of the property. We oppose any attempts to impose mandatory energy efficiency requirements on newly constructed and existing residential, commercial and industrial properties through governmental action.

Under the free enterprise system, we encourage the market to develop cost-effective, voluntary energy conservation and efficiency measures to help owners make their property more efficient. Towards this end, government should provide meaningful incentives to businesses and property owners to adopt energy conservation and efficiency measures in their properties.

Mortgage Finance

Recognizing the importance of private property ownership and the real estate market to economic growth, REALTORS® support the continuation and enhancement of governmental institutions that provide for increased mortgage financing availability for residential and commercial property. We encourage the government and private sector to continue to explore and develop financially sound financing products that make it possible for more citizens to realize the dream of property ownership.

Rental Housing

REALTORS® believe that the Kansas Landlord Tenant Act is an effective statute that fairly balances the rights and responsibilities of landlords and tenants. We continue to believe that the statute is well-written and oppose any attempts to modify the statute by the Kansas Legislature.

REALTORS® oppose ever-increasing local regulation of the rental housing industry, such as tenant participation in management decisions and rental registration requirements. In addition, we oppose local rent control ordinances that prevent rents from keeping pace with operating expenses and discourage investment in real estate.

Radon Gas

As responsible members of the community, REALTORS® support reasonable efforts to educate home buyers and sellers on the potential problems associated with radon gas exposure over long periods of time. Accordingly, we urge home buyers who are concerned about the potential exposure to radon gas to have property tested for its presence. However, we absolutely oppose any legislation that would require the mandatory testing of all new and existing homes for radon gas.

Real Estate Licensing and Regulation

In conjunction with the vigilant enforcement of the REALTOR® Code of Ethics, REALTORS® are acutely aware of the importance and necessity of the continued licensure and regulation of the real estate industry by the Kansas Real Estate Commission. At all times, REALTORS® strive to protect the interests of the public by maintaining and perpetuating a high level of competence for those individuals entering and continuing to practice in the real estate industry.

Towards this end, we also recognize the importance of protecting the public by opposing legislation designed to circumvent the licensure and regulation of the real estate industry. Accordingly, we favor reasonable pre- and post-licensing educational requirements to enhance the competency of the industry.

Organization of the Kansas Real Estate Commission

In upholding our commitment to active involvement in governmental activities, the association will provide the names of qualified members for the Governor to consider when making appointments to the Kansas Real Estate Commission. In order to preserve the effectiveness and responsiveness of the Commission, we absolutely oppose placing the licensure and regulation of the real estate industry under the control and direction of any other occupational licensing agency.

Independent Contractor

REALTORS® oppose any efforts to change current state and federal laws regarding the independent contractor status of real estate licensees, which would be detrimental to REALTORS® and would bring our state laws into conflict with federal legislation in the areas of workers' compensation, income tax withholding, unemployment compensation, and social security.

Political Involvement

Recognizing that there is a real threat to the free enterprise system in this country, REALTORS® believe in the need for continuing participation in local, state and national political affairs and urge aggressive support of those candidates who pledge and evidence by their actions a commitment to preserve and strengthen America's free enterprise system and the underlying principle of private property ownership.

REALTORS® are sophisticated in the understanding of our political system and urge members to become involved and participate in political activity at all levels of government. All members should offer their personal support to candidates who are committed to the free enterprise system, the protection of private property rights and the promotion of a high quality of life for the citizens of the state of Kansas.