



## From The Board Room

### Trust Fund Committee Meets

On January 21, the Trust Fund Study Committee of the Real Estate Licensing Board met at the Board's office in Raleigh. Present at this meeting were Committee Members A. P. Carlton (Chairman) presiding, B. Hunt Baxter, Jr., and James A. Beaty, Jr. Also present were Board Chairman Brantley T. Poole, various members of the Licensing Board staff and numerous persons from the brokerage and property management fields of the real estate industry.

The Trust Fund Study Committee was created by the Real Estate Licensing Board to examine its current rules and policies relating to trust funds and trust accounts and to make recommendations to the Board as to any changes which the Committee deems necessary.

At the two-hour Committee Meeting, Chairman Carlton briefed those in attendance on the background and purpose of the Committee. Phillip Fisher, the Board's Administrative Assistant, then presented certain proposed "guidelines" which were prepared for the Committee's consideration by the Licensing Board staff. The Committee Members and persons from the audience were free to comment on the proposals as they were presented. Of particular interest were the proposals regarding when to deposit trust funds and how to make proper disclosure when trust funds are being deposited in an interest-bearing account.

The Committee will consider the proposed "guidelines" together with the comments which it has received and will then make its recommenda-

tions to the Real Estate Licensing Board. [NOTE: Upon the recommendation of the Committee, the Real Estate Licensing Board at its February meeting voted to hold a rule-making hearing to propose the amendment and adoption of certain rules relating to trust funds (See **Bulletin**, page two). The Committee will submit to the Board its final recommendations for trust fund "guidelines" at a future meeting.]

### Bryson AIREA President

Board Member **Bart T. Bryson** of Hendersonville was recently installed as President of Chapter 40 of the American Institute of Real Estate Appraisers (AIREA).



**Board Member Bart Bryson accepts AIREA gavel from out-going President Stuart W. Elliott.**

Mr. Bryson is a Member of the Appraisal Institute (MAI) and the Society of Real Estate Appraisers (SRPA) and has taught courses in real estate appraising and brokerage at various universities and technical institutes and at the REALTOR'S Institute in Chapel Hill.

Mr. Bryson is the second Member of the Real Estate Licensing Board

currently serving as president of a state-wide association. In September, **Dee McCandlish**, Vice Chairman of the Board, was installed as President of the Mortgage Bankers Association of the Carolinas. Ms. McCandlish is Regional Vice President and Manager of the Charlotte Branch of First Atlantic Corporation.

### Condo Associations

At its January meeting, the Real Estate Licensing Board considered the question of whether an unlicensed resident manager of a condominium complex employed by the condominium Homeowners Association may lease or manage the condominium units for compensation (whether paid to the Association or to the manager).

Based upon the facts in the particular case before the Board, the Board determined that the Association itself needed a real estate broker's license, and the individual(s) performing the actual rental services must be licensed as a real estate broker or salesman.

The following excerpt from the Board's ruling, states the reasoning behind their decision:

"The real estate license law defines a real estate broker as 'any person, partnership, association, or corporation who, for a compensation or valuable con-

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## REAL ESTATE BULLETIN

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### NORTH CAROLINA REAL ESTATE LICENSING BOARD

1200 Navaho Dr.

P.O. Box 17100

Raleigh, North Carolina 27619

Phone 919/872-3450

James B. Hunt, Jr., Governor

### BOARD MEMBERS

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Chrm.

Dee McCandlish ..... Charlotte  
V. Chrm.

B. Hunt Baxter, Jr. .... New Bern

James A. Beaty, Jr. .... Winston-Salem

Bart Bryson ..... Hendersonville

A. P. Carlton ..... Greensboro

William C. Stokes ..... Reidsville

Blanton Little ..... Sec'y Treas.

Phillip T. Fisher ..... Admin. Asst.

### Application Requirement Eliminated

Applicants for North Carolina real estate salesman licenses are no longer required to have a supervising broker prior to taking their licensing examination.

This change in the Board's policy followed an Opinion from the North Carolina Attorney General which held that an applicant for a salesman license need not include the name of a sponsoring broker with his application for license—that such name could be supplied by the licensee after he has passed the examination. According to the Opinion, the Real Estate Licensing Board could, in the meantime, assign such person to an inactive license status until he has found a supervising broker with whom to associate.

While the elimination of this requirement will make it easier to apply for a salesman license, a supervising broker is still required prior to the issuance of such license. □

## Notice of Hearing

Notice is hereby given that the North Carolina Real Estate Licensing Board, pursuant to authority vested in it by Section 93A-3(c) of the General Statutes of North Carolina, proposes to amend Rule .0107 and to repeal Section .0200 of Chapter 58, Title 21 of the North Carolina Administrative Code, to be effective June 1, 1981, in substance as follows:

1. Rule .0107 (a) to be amended by providing that earnest money deposits and tenant security deposits shall be deposited in a trust or escrow account not later than 72 hours following acceptance of the offer to purchase or lease.
2. A new paragraph (b) to be added to Rule .0107 requiring that any authorization to deposit trust funds in an interest-bearing trust account shall be in writing; shall specify how and to whom the interest will be paid; and shall be set forth in a manner designed to attract attention to it if such authorization is contained in an offer, contract, lease, or other transaction instrument.
3. Section .0200 to be repealed.

Notice is also given that any person may present written or oral statements or arguments relevant to the action proposed at a hearing to be held at the offices of the Real Estate Licensing Board, 1200 Navaho Drive, Raleigh, North Carolina on April 1, 1981 at 2:00 p.m.

Written statements not presented at the hearing should be directed before April 13, 1981, to the following address: North Carolina Real Estate Licensing Board, Post Office Box 17100, Raleigh, North Carolina 27619.

A copy of the proposed changes is available for public inspection, or may be obtained upon request to the Real Estate Licensing Board.

This the 1st day of March, 1981.

BLANTON LITTLE

Blanton Little, Secretary-Treasurer

### New Education Requirements In Effect

Since January 1, it has become more difficult to qualify for the broker examination. Why? Because on January 1 the new pre-license education requirements became effective.

Prior to January 1, applicants for broker licenses were required to complete a real estate course approved by the Licensing Board consisting of at least 60 classroom hours of instruction; the 60-hour requirement came into effect September 1, 1979 replacing the previous requirement of 30 hours.

Now, applicants for broker licenses must complete a Board-approved course consisting of at least 90 classroom hours of instruction (or have 24 months full-time experience as a licensed real estate salesman or equivalent experience).

Legislation providing for the graduated increase in education requirements was enacted by the 1979 Session of the N. C. General Assembly reflecting a similar movement nation-

wide to upgrade the standards of real estate practice and to better prepare the real estate practitioner for the ever-increasing complexities of the real estate business.

The education requirement for the salesman examination remains at 30 classroom hours of instruction at a school approved by the Real Estate Licensing Board. □

### EXAM RESULTS

#### EXAMINATION—October, 1980

	Passed	Failed
Brokers	164	379
Salesmen	70	37

#### EXAMINATION—November, 1980

	Passed	Failed
Brokers	101	302
Salesmen	41	55

#### EXAMINATION—December, 1980

	Passed	Failed
Brokers	138	465
Salesmen	45	79

#### EXAMINATION—January, 1981

	Passed	Failed
Brokers	451	1035
Salesmen	76	65



# North Carolina Homebuyer Survey

The following is a summary of the results of a survey of 1979 homebuyers in five North Carolina cities. The survey was prepared for the North Carolina Real Estate Licensing Board and the North Carolina Real Estate Research Center by Dr. G. Donald Jud of the Center for Applied Research, University of North Carolina at Greensboro.

This survey of homebuyers in five North Carolina cities [Charlotte, Greensboro, Hickory, Raleigh, and Wilson] was designed to develop a profile of the average homebuyer and to relate this profile to the services provided by real estate brokers. In each survey area, a random sample of residential properties that sold in the city or surrounding area within the same county during 1979 was selected from the Register of Deeds office and served as the basis for the survey. The survey attempted to identify the broker's role in the buyer's home-selection decision and to determine the proportion of housing transactions handled by brokers.

The average buyer in 1979 paid \$56,205 for a home. This was approximately 2.2 times the buyer's annual family income. [New homes sold for an average of \$61,241, while existing homes sold for an average of \$53,631.] 63% of all homebuyers were previous homeowners. The majority of buyers lived previously in their county of residence prior to the purchase of a home. 86% of all buyers were married, and of these, 62% were families in which the husband and wife both worked. Buyers had an average of one child per household, but 43% of buyers had no children.

62% of buyers bought an existing home. Among buyers of existing homes, 51% reported the previous owner remained in the same county. [First-time homebuyers and buyers who were previous residents of the county were likely to spend somewhat more time searching for a home.] Among married homebuyers, the responsibility of searching for a home, in most cases, was shared by both husband and wife.

The majority of buyers purchased their home with conventional financing and only 26% obtained an

FHA or VA loan. However, FHA and VA financing was much more popular among first-time homebuyers. 43% of first-time buyers obtained an FHA or VA loan.

78% of buyers reported they used the services of a real estate broker to aid them in their housing search. Most buyers selected a broker based on 1) the recommendation of a friend [33%], 2) his general reputation [22%], or 3) other means, including neighborhood search [25%]. 73% purchased a home that was listed by a broker. [Brokers handle 82% of existing home sales and 69% of all new homes sold.] However, only 43% reportedly selected their home on the basis of the recommendation of a broker. The remaining 57% selected a home through 1) neighborhood search [32%], 2) other means, including the recommendation of friends [17%], or 3) the newspaper [9%]. [The survey suggests that it is a mistake to overestimate the role of the broker in guiding consumers in their housing choice. Although the broker's role is important, it is not dominant. Neighborhood search and the recommendation of friends are more important information sources to homebuyers than are broker recommendations.]

Brokerage firms associated with national or regional franchises (or associations) accounted for an average of 36% of all residential housing sales. Only about 33% of all sales were listed through the local area MLS; however, MLS listings accounted for about 46% of the total market for existing homes.

Homebuyers who employed a real estate broker to aid them in their housing search were more likely to be 1) new residents of the county, 2) married, 3) have children, and 4) have somewhat higher incomes than the average buyer. They were also more likely to purchase 1) an existing home, 2) one that was listed by a broker, and 3) one that was listed through MLS. First-time homebuyers were found to be no more likely than the average buyer to consult a broker when looking for a home or to buy a home listed by a broker. Homesellers who moved out of the county were more likely than others to list their

home with a broker and to sell their home through MLS. Correlation analysis revealed little difference between the customers of franchised brokers and those of non-franchised brokers.

The level of satisfaction expressed by buyers with the services of real estate brokers was found to be quite high. A large majority of buyers said they would recommend the broker through whom they bought their home to a friend (88%) and would list their own home with the same broker when they sell (79%). No statistically significant differences were found in the level of buyer satisfaction based on the race, income, or sex of respondents. □

For a complete copy of "A Survey of 1979 North Carolina Homebuyers", send \$4.50 cash or check to:

North Carolina Real Estate  
Research Center  
Post Office Box 1167  
Chapel Hill, North Carolina 27514  
Attn: Dr. Mike Miles, Director

## Real Estate Research Center Call For Proposals

1. The North Carolina Real Estate Research Center is organized to facilitate the participation of academe, industry and state government in real estate research.
2. The center supports various types of projects from data collection and analysis to long-term forecasting.
3. The primary criteria for support are a) relevance of the topic to the people of North Carolina (both immediately and over the long term); and b) willingness and ability of the researcher to do quality work.
4. Some of the projects initiated in 1980 were:  
Real Estate Brokerage and the Anti-Trust Laws  
Comprehensive Real Estate Feasibility Analysis  
A survey of 1979 North Carolina Homebuyers (See this page).
5. Please submit suggested topics for future research to the Directors, North Carolina Real Estate Re-

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## Disciplinary Action

The Real Estate Licensing Board suspended the broker's license of H. STANLEY GLADDEN of Greensboro for six months for commingling his principal's funds with his own, and for writing checks drawn on his property management escrow account which were returned for insufficient funds.

The Licensing Board suspended the broker's license of WILLIAM M. AYCOCK, III of Greensboro for two months for failing to deposit rents and other funds of others in a trust or escrow account, and for writing checks drawn on his escrow account which were returned for insufficient funds.

The Licensing Board censured broker CAREY M. METTS of Asheville for failing to carry out the instructions of property owners whose property he managed, and for failing to keep accurate records of funds received and disbursed. □

## CALL FOR PROPOSALS

(Continued from Page 3)

search Center, Post Office Box 1167, Chapel Hill, North Carolina 27514.

6. Those interested in conducting research should submit their proposals (typed, double spaced, no more than five pages excluding exhibits) including the following, to the Directors by March 30, 1981.
  - a. Research Topic
  - b. Data Base (Existing or to be gathered)
  - c. Research Methodology (Method of analysis)
  - d. Objectives and potential benefits of the research
  - e. Expected date of completion
  - f. Name of Researcher(s)
  - g. Mailing Address and telephone number of researchers
  - h. Vita of Researcher(s)
  - i. Grant Request (Amount). The center reserves the right to offer partial funding. □

## Court Rules on Exclusive Listing Agreements

The North Carolina Supreme Court has ruled that an exclusive listing agreement for real estate, which sets out the sales price and terms of sale, does not confer upon the real estate agent the authority to enter into a contract of sale on behalf of the seller.

In its decision the Court noted that although a listing agreement may state that the agent shall have an exclusive "right to sell" the property, the term "to sell" when used in contracts between real estate agents and owners of property is generally given the restricted meaning of power to find a purchaser, and alone is not sufficient to empower a real estate agent to enter into a contract of sale for that property.

As the Court pointed out, "The decision whether to sell the land, on what terms, and to whom, involves complex questions which should not be deemed readily entrusted to an agent. Where several offers are received by an agent, they may vary not only as to price but also as to terms, financing, date of possession or numerous other factors. A decision on such matters would normally be for the owners of real estate, not their agents."

CAVEAT: In order for a real estate agent to have authority to enter into a binding contract of sale, he or she must be clearly and expressly granted that authority in the listing agreement.

**James E. Scarbrough** (former legal counsel to the North Carolina Real Estate Licensing Board) was attorney for the defendant-appellee (property

## CONDO ASSOCIATIONS

(Continued from Page 1)

sideration or promise thereof . . . leases or offers to lease . . . or rents or offers to rent any real estate . . . for others.' G.S. 93A-2(a). The statute goes on to exempt 'any person, partnership, association or corporation, who, as owner . . . , shall perform any of the acts aforesaid with reference to property owned . . . by them,' and states that the statute does not 'require a license for the owner, personally, to sell or lease his own property.' G.S. 93A-2(c).

"Obviously, any condominium unit owner may lease or rent his own property without a license. In addition, a bona fide employee of the unit owner may manage his employer's property without a license. But the proposal to have unlicensed employees of the Owners Association manage the property falls outside the 'owner exemption.' The reason is simple: the Association does not own the property. It is an entity comprised of unit owners, but as an entity the Association itself is not the property owner. Consequently, the Association, through its employees, would be managing property for others, for compensation. Without a license, this practice is forbidden by the statute." □

owner). An amicus curiae brief was filed by Assistant Attorney General Harry H. Harkins, Jr., Legal Counsel for the North Carolina Real Estate Licensing Board. □

NORTH CAROLINA  
REAL ESTATE LICENSING BOARD  
P O Box 17100  
Raleigh, N C 27619

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