



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

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Number 2

LEGISLATURE ENACTS REAL ESTATE APPRAISERS ACT

On June 30, the North Carolina General Assembly passed the "North Carolina Real Estate Appraisers Act" establishing a voluntary program for real estate appraisers who wish to become "State-licensed" or "State-certified." The legislation was introduced at the request of the Real Estate Commission and supported by numerous organizations representing real estate appraisers and lending institutions as well as the North Carolina Association of REALTORS.

State Representative Harold J. Brubaker (R-Randolph) sponsored the legislation, appearing before various legislative committees and subcommittees on its behalf. **Senator J. K. Sherron** (D-Wake) explained and advocated the bill on the floor of the Senate, and Commission Executive Director **Phillip T. Fisher** served as Legislative Liaison.



Left to right, Seated: Representative **Harold J. Brubaker**, Commission Executive Director **Phillip T. Fisher**, and Senator **J. K. Sherron**. Standing: Commission Members **Chandler B. Lee**, **Grace T. Steed**, Chairman **J. Edward Poole**, Vice-Chairman **Elmer C. Jenkins**, Members **Patricia B. Casey**, **June P. Mooring** and **Gilbert L. Boger**.

A summary of the key provisions of the legislation was included in the previous issue of the **Real Estate Bulletin** and is reprinted on page four of this **Bulletin**.

Plans are currently being made to implement the Appraiser Licensing and Certification Program, including filling the new position of Director of Real Estate Appraiser Licensing and Certification and appointing a five-member Real Estate Appraisal Committee to advise the Commission on real estate appraisal matters.

Director of Appraiser Licensing and Certification

To assist in administering the Real Estate Appraiser Licensing and Certification Program, the Commission has created the position of Director of Appraiser Licensing and Certification. The Director will assume primary responsibility for administering the program, operating under the direction of the Commission's Executive Director and with the advice and counsel of the Real Estate Appraisal Committee.

Interested persons who possess solid appraisal credentials and excellent administrative skills should refer to page three of this **Bulletin** for further details concerning the position.

Real Estate Appraisal Committee

The Real Estate Appraisal Committee initially will meet as many as four days each month in Raleigh to consider items necessary for the administration of the Appraiser Licensing and Certification Program. The Committee will recommend to the Real Estate Commission rules regarding the qualification standards and standards of conduct for State-licensed and State-certified real estate appraisers, as well as providing other technical advice and assistance to the Commission. Members will be paid \$35 per day for each day spent on official Committee business and will be reimbursed travel and subsistence expenses at State employee rates.

Persons who have been actively engaged in
(Continued on Page 3)

JENKINS ELECTED CHAIRMAN



Elmer C. Jenkins, GRI, CRB has been elected Chairman of the North Carolina Real Estate Commission for a one-year term commencing August 1, 1989. Mr. Jenkins and his wife, Norma, own and operate Jenkins, REALTORS in Blowing Rock. He is a Past President of the North Carolina Association of REALTORS and serves on the Executive Committee of the N.C. Real Estate Educational Foundation. He is also a Director of both the North Carolina and National Association of REALTORS.



Grace T. Steed has been elected Vice-Chairman of the Commission for the coming year. Mrs. Steed is a licensed real estate salesman associated with Britt Realty Company in Archdale. She is active in the civic and political affairs of her community, and is currently serving as a Director of the National Association of Real Estate License Law Officials. □

POOLE, BOGER NAMED TO HUD ADVISORY COUNCIL

Commission Members **J. Edward Poole** and **Gilbert L. Boger** have been chosen to serve a two-year term on the U.S. Department of Housing and Urban Development's North Carolina Advisory Council. The twenty-member Council, which is comprised of representatives of the real estate, homebuilding, and mortgage banking industries, periodically meets with members of the HUD staff to discuss questions and concerns related to the FHA Program.

EMPLOYMENT OPPORTUNITIES

See Page 3

Director of Appraiser

Licensing and Certification

Trust Account Auditor

REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law, Rules and Regulations, and proficiency in ethical real estate practice. The articles published herein shall not be reprinted or reproduced in any other publication without specific reference being made to their original publication in the **North Carolina Real Estate Commission Real Estate Bulletin**.

NORTH CAROLINA REAL ESTATE COMMISSION

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Grace T. SteedRandleman
Vice-Chairman
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Patricia B. CaseyRaleigh
Chandler B. LeePinehurst
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Anita R. BurtCons. Prot. Officer
Ann R. BrittExam/Lic. Officer
Evelyn JohnstonEducation Officer

Editor
Phillip T. Fisher

EXAM RESULTS

	Passed	Failed
APRIL 1989		
Brokers	156	106
Salesmen	481	335
MAY 1989		
Brokers	113	106
Salesmen	378	305
JUNE 1989		
Brokers	218	109
Salesmen	619	419

LARRY OUTLAW TO LEAD NATIONAL REAL ESTATE EDUCATORS



Larry A. Outlaw, Director of Education and Licensing for the N.C. Real Estate Commission, was elected to the office of President-Elect of the

LEE LEAVES COMMISSION

Commission Member **Chandler B. Lee** completed his term of office on the Commission on July 31. He was appointed by Governor Martin to the Commission in November, 1987 to fill the unexpired term of Ernest Pearson as one of the Commission's two public members.



Commission Chairman J. Edward Poole (left) presents service award to Member Chandler Lee.

During his tenure on the Commission, Mr. Lee was especially active in administrative matters and in promoting fair housing opportunities for North Carolina citizens. The Commission members at their July meeting expressed to Mr. Lee their appreciation for his service and contributions to the Commission during his term of office. □

National Real Estate Educators Association (NREEA) at the Association's recent annual conference in San Diego. After serving as President-Elect for a year, Mr. Outlaw will become 1990-91 President of NREEA.

NREEA is a professional association for real estate educators affiliated with colleges, universities, proprietary schools, regulatory agencies, trade organizations, publishers and other private and public organizations from all 50 states, Canada and Australia. NREEA's general goals are to provide a forum for the exchange of ideas and information among real estate educators and to further the development of quality real estate education.

Mr. Outlaw is a graduate of Davidson College and the UNC Law School. He has been employed by the N.C. Real Estate Commission for more than 10 years and is responsible for the Commission's real estate education, examination and licensing operations. He is also co-author of the widely used text *North Carolina Real Estate for Brokers and Salesmen*. □

TRUST ACCOUNT COURSE CARAVAN

Commission Education Officer **Evelyn Johnston** reports that 279 persons attended the series of Trust Account Short Courses which she conducted across the state. The half-day courses were held in Wilmington, New Bern, Fayetteville, Charlotte, Asheville and Greensboro April 24 through May 3.

The course is intended for Brokers-In-Charge, bookkeepers and other persons responsible for maintaining real estate trust accounts. In addition to the annual Caravan, courses are held monthly in the Commission's Raleigh office. □

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH

Primary Date

September 12
October 10
November 14
December 12

Overflow Date

September 19
October 17
November 21
December 19

1. The Trust Account Short Course is designed to bring participants up to date on current laws, rules and procedures governing the handling of client funds and to assist real estate firms in developing good bookkeeping and recordkeeping practices.
2. Participation is limited to real estate licensees and trust account bookkeepers. (No unlicensed prelicensing students please.)
3. These courses are FREE. Courses will be conducted at the Commission Office and will begin at 1:00 p.m. and end at approximately 4:30 p.m.
4. To register for the course, telephone the Real Estate Commission's Education Department (919-733-9580) at least 10 days prior to the course. Please have your real estate license number (if any) handy! A registration confirmation and directions to the Commission Office will be sent to each registrant.
5. Registrations will be accepted on a first-come, first-served basis. After the course scheduled for the "Primary Date" is full, additional registrants will be scheduled for the "Overflow Date."

REAL ESTATE COMMISSION EMPLOYMENT OPPORTUNITIES

The following job description summaries are for positions now available on the professional staff of the Real Estate Commission. Interested, **qualified** persons are referred to the **Application Instructions** and **Employment Schedule** shown below.

Questions or requests for additional information should be directed **in writing** (no telephone inquiries please) to the Real Estate Commission, Attn: Appraiser Director or Trust Account Auditor, as appropriate.

Director of Appraiser Licensing and Certification

SALARY:	Beginning Salary Range \$33,557 - \$35,256 (depending upon qualifications)
BENEFITS:	Health insurance (Family Coverage); retirement contribution; paid vacation and sick leave.
DUTIES:	(1) Supervises the administration of the real estate appraiser licensing and certification program, including developing application forms and materials; supervising application processing, reviewing and evaluating education and/or experience qualifications of license and certificate applicants; and supervising the maintenance of necessary files and records. (2) Acts as staff liaison between the Real Estate Appraisal Committee and the Real Estate Commission, including preparing the agenda and minutes for Appraisal Committee meetings; and performing necessary research and framing issues for discussion by the Appraisal Committee. (3) Assists the Director of Education and Licensing regarding real estate appraiser courses and examinations, including providing technical advice and assistance regarding the subject matter of appraisal courses; and assisting in the development and implementation of educational and informational offerings for real estate appraisers and consumers. (4) Assists the Director of Audits and Investigations and the Commission Legal Counsel in the investigation and prosecution of violations of the Real Estate Appraisers Act where appraisal expertise is required. (5) Performs other related duties at the direction of the Executive Director.
QUALIFICATIONS:	Graduation from a four-year college; two years experience in general real estate appraising, 180 classroom hours of real estate appraisal education, and two years in an administrative or supervisory capacity; or an equivalent combination of education and experience.
OTHER REQUIREMENTS:	Must reside in or be willing to relocate to the Raleigh area (No moving expenses or allowance will be paid by the Commission). Must possess excellent organizational skills and superior written and verbal communication skills.

Trust Account Auditor

SALARY:	Beginning Salary \$24,560
BENEFITS:	Health insurance (Family Coverage); retirement contribution; paid vacation and sick leave.
DUTIES:	(1) Audits and inspects real estate brokerage trust records on a state-wide basis whenever the Commission determines that the records are pertinent to the investigation of a specific complaint against a real estate broker or salesman, or a time share project developer. (2) Conducts routine, periodic audits of real estate trust accounts to determine compliance with the Real Estate License Law and Commission Rules. (3) Testifies at administrative hearings as to the findings of trust account audits. (4) Performs other related duties at the direction of the Director of Audits and Investigations.
QUALIFICATIONS:	Graduation from a four-year college with a major in business administration or at least nine semester hours in accounting, and one year of accounting or auditing experience; or a two-year degree in accounting and three years of accounting or auditing experience; or graduation from high school and five years' experience as an accounting technician, including at least two years at an advanced level; or an equivalent combination of education and experience.
OTHER REQUIREMENTS:	(1) Must be licensed as a North Carolina real estate broker or salesman or become licensed within one (1) year after employment. (2) Must reside in or be willing to relocate to the Raleigh area (No moving expenses or allowance will be paid by the Commission). (3) Must have auto available for use at work.

Application Instructions

1. Obtain an Application for Employment Form from the Commission (919/733-9580).
2. The form must be properly completed. You **may** submit a resume in addition to the Application Form.
3. Because of the volume of applications normally received, **we ask that you not make telephone inquiries or requests for appointments.**
4. Applications must be received in the Real Estate Commission Office not later than **Friday, August 18, 1989.**

Employment Schedule

August 18	— Deadline for Employment Applications
August 28-31	— Preliminary Interviews
September 5	— Final Interviews and Decision
October 1	— Begin Work (Specific date negotiable)

EQUAL OPPORTUNITY EMPLOYER

APPRAISAL COMMITTEE

(Continued from Page 1)

the real estate appraisal business for at least the past five years and who feel that they possess the special appraisal training and expertise required to serve on the Appraisal Committee, should furnish the Commission a letter stating their interest in serving on the Committee and describing their real estate appraisal education and experience. Be sure to:

1. List all appraisal courses, seminars, workshops and other educational offerings completed, including the number of contact hours and the course sponsor.
2. List all professional designations and memberships currently held, including the qualification requirements and any offices held or awards received.
3. State the number of years that you have been actively engaged in real estate appraising (other than performing "comparative market analyses" in connection with real estate listings), and the level of your activity (part-time, full-time) and the types of real estate appraised (residential, commercial, etc.) within the past five years.
4. List any business, civic, religious, governmental or other offices or positions held which might limit your attendance at Committee meetings.
5. Give a brief statement explaining why you wish to serve on the Real Estate Appraisal Committee.

The above information should be sent to the Real Estate Commission, Attention: Appraisal Committee, and must be received in the Commission office not later than August 18, 1989. ☐

RENEWAL REPORT

64,408 North Carolina real estate brokers and salesmen and 3,152 brokerage corporations renewed their real estate licenses by the June 30 expiration date (approximately 90% of all licenses eligible for renewal). The Commission thanks those many licensees who renewed their licenses in a timely manner. ☐

NORTH CAROLINA REAL ESTATE APPRAISERS ACT

The following is a summary of the major provisions of the recently enacted Real Estate Appraisers Act. A copy of the complete text of the legislation is available without charge from the Real Estate Commission.

Questions concerning the availability of appraisal courses and the acceptability of appraisal experience and education previously completed will be addressed in future editions of the *Real Estate Bulletin*. Persons concerned about these and other aspects of the new law are asked to refrain from contacting the Commission office until the Real Estate Commission and the Real Estate Appraisal Committee has had adequate time (approximately 6 months) to formulate and propose necessary rules, policies and procedures.

Summary

1. On January 1, 1991, a program will be available to persons who wish to become "State-licensed" or "State-certified" real estate appraisers. **[Note: This program is totally voluntary. No North Carolina license or certificate will be required to appraise real estate.]**
2. State-licensed or certified appraisers can:
 - a. Identify themselves to the public as being "State-licensed" or "State-certified" real estate appraisers.
 - b. Perform appraisals in federally related transactions. **[Note: Pending federal legislation would require the use of state licensed or certified appraisers in all federally related transactions after July 1, 1991, including the sale, lease, financing, etc. of real estate in which the FDIC, FSIC, FNMA, FHA, VA, etc. has an interest.]**
3. Qualification requirements:
 - a. To become "State-licensed," applicants must complete 90 classroom hours of instruction approved by the Real Estate Commission concentrating on residential appraising, or have equivalent appraisal education and/or experience; and pass an examination.
 - b. To become "State-certified," applicants must complete 180 classroom hours of instruction approved by the Commission in general appraisal subjects (residential, commercial, farm and land, etc.) and have two years' appraisal experience, or equivalent appraisal education and/or experience; and pass an examination.
 - c. Additional education and experience may be required, if necessary, to satisfy federal law.
 - d. Up to 12 hours per year continuing education may be required to retain an appraiser license or certificate.
4. Fees:
 - a. Appraiser license or certificate (including examination): \$150 maximum.
 - b. Appraiser license or certificate annual renewal fee: \$100 maximum.
 - c. An additional fee (\$25 - \$50) will be collected and paid to the federal government from persons who wish to be placed on the federal registry of appraisers qualified to perform appraisals in federally related transactions.
5. One member of the Real Estate Commission must be a State licensed or certified real estate appraiser, and a five-member Real Estate Appraisal Committee will be appointed by the Commission to assist in developing and administering the appraiser license and certification program.
6. "State-licensed" and "State-certified" appraisers who violate the Appraiser Act will be subject to disciplinary action by the Real Estate Commission, including:
 - a. Loss of their privilege to use the term "State-licensed" or "State-certified";
 - b. Loss of their eligibility to perform appraisals in federally related transactions; and
 - c. Loss of their real estate broker or salesman license (if they are so licensed). □

EDUCATION NEWS

Scholarships Awarded

The North Carolina Real Estate Educational Foundation recently named this year's recipients of two scholarships sponsored by the Real Estate Commission recognizing outstanding achievement at the North Carolina REALTORS Institute. **Joyce Mitchell** of Raleigh was awarded the "Joe Schweidler Memorial Scholarship" for attaining the highest scholastic average in Course B, and **Janice Lea** of Lexington received the "Blanton Little Memorial Scholastic Achievement Award" for outstanding academic achievement at the Institute.

It's Your Move

For the tenth year, the Real Estate Commission has funded the publication and distribution of "It's Your Move" booklets to North Carolina high school students. The booklets contain basic information about buying, selling and renting real estate and are used in conjunction with economics, consumer education and related courses.

This year, 13,500 booklets will be produced bringing the total to more than 290,000 copies printed and delivered to high schools since 1979. □

REPRESENTATIONS REGARDING FUTURE DEVELOPMENT PLANS

By
Blackwell M. Brogden, Jr.
Deputy Legal Counsel

North Carolina's increasing urbanization and the continuing development of its resort areas has given rise to a pattern of complaints alleging misrepresentations by real estate developers and their agents. The complaints frequently involve representations regarding amenities and design features of projects in which property is sold, the continuing development plans for particular projects, and the zoning and potential future uses of adjoining tracts of land.

Representations and misrepresentations in connection with sales in real estate developments may be made *verbally* as in the case where an agent told buyers that certain property adjoining a new subdivision had been farmed by the same family for three generations and they would never give it up; when, at the same time, the family was petitioning for a zoning change to place a major regional shopping center on the property. Another example of a verbal misrepresentation is where a broker knew but failed to disclose to a purchaser of vacant land that a major thoroughfare was being opened behind and on one side of the lot.

But, unlike other traditional real estate transactions, sales in large, multi-phased developments also frequently include *visual* representations in the form of promotional materials, site plans or models, and maps. Although these visual depictions and renderings may be intended merely for illustrative purposes, purchasers understandably believe that they constitute specific representations about the future use and development of the project and surrounding areas.

For example, in one case reviewed by the Commission staff, exterior lots in a residential subdivision were shown on a map distributed by a developer as bordering a "research campus" restricted to low-density office use. In fact, the developer had re-zoned the property for high-density apartment use and by the time the homes were occupied, the paving of the apartment parking lot was within a few feet of the single family homes.

Visual representations of "buffer zones" or "common areas" are also a frequent source of complaints where wooded areas, with plentiful trees in accurate scale are shown on a model of the development as separating residential and non-residential uses. But, as non-residential uses are later built, the "wooded buffer zone" becomes a grassy strip a few feet wide between a residential unit and a dumpster.

Common sense and basic skills necessary for any real estate transaction can do much to avoid consumer dissatisfaction with the agent when the future does not bring what the buyer believes the agent promised. If the agent does not know the answer to a buyer's inquiry, he should admit he does not know. A

(Continued on Page 6)

DISCIPLINARY ACTION

Penalties for violations of the Real Estate License Law and Commission Rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.

FREDERICK A. AMON, JR. (Charlotte) — By Consent, the Commission suspended Mr. Amon's salesman's license for twelve months effective June 15, 1989. Six months of the suspension are to be active and six months suspended. The Commission found that Mr. Amon had operated as a real estate salesman after the suspension of the license of his supervising Broker-In-Charge.

MICHAEL R. BANKS (Avery County) — By Consent, the Commission suspended Mr. Banks' broker's license for two years effective June 1, 1989. The Commission then suspended its Order and placed Mr. Banks on probation for two years. The Commission found that Mr. Banks had operated a real estate brokerage corporation prior to obtaining a real estate license for the corporation. The Commission also found that Mr. Banks, before licensing the corporation, had prematurely advanced to the corporation funds in excess of commissions held for it in the trust account.

JUDY H. BEASLEY (Morehead City) — By Consent, the Commission revoked Ms. Beasley's broker's license effective May 11, 1989. The Commission found that Ms. Beasley had failed to exercise her responsibilities and duties as Broker-In-Charge of a real estate office by failing to maintain and deposit into a trust account the funds of others received in connection with the resale of time shares and by failing to supervise persons associated with the office.

CHARLES P. COOK (New Hanover County) — By Consent, the Commission revoked Mr. Cook's broker's license effective May 15, 1989. The Commission found that Mr. Cook had pleaded guilty to criminal offenses involving moral turpitude which would reasonably affect his performance in the real estate business; namely, embezzlement and two counts of forgery and uttering a forged instrument.

G. M. MANAGEMENT CORPORATION (Currituck County) — By Consent, the Commission revoked the corporate real estate license of G. M. Management Corporation effective May 1, 1989. The Commission found that the corporation, during the marketing of real property interests in a private campground, had paid sales commissions and bonuses to persons who were not licensed as real estate brokers or salesmen.

PATRICIA A. GLOSSON (Durham) — By Consent, the Commission revoked Mrs. Glosson's broker's license effective June 1, 1989. The Commission found that Mrs. Glosson, in a transaction involving her husband as builder and seller, assisted in submitting to a lender a sales contract and an earnest money check which did not accurately recite the terms of the transaction or show the correct

amount of earnest money. Mrs. Glosson neither admitted nor denied the allegations of misconduct.

DARYL L. GOETZ (Indian Beach) — By Consent, the Commission accepted the voluntary surrender of Mr. Goetz's broker's license for one year effective June 1, 1989 and dismissed without prejudice certain charges against him involving trust account recordkeeping and disbursements. The Commission noted that all funds had been properly accounted for prior to its investigation. Mr. Goetz neither admitted nor denied any misconduct.

LONNIE HALL (Spring Lake) — By Consent, the Commission suspended Mr. Hall's broker's license for one year effective August 1, 1989. Forty-five days of the suspension are to be active and one year on probation. The commission found that Mr. Hall had failed, within a reasonable time, to remit to the proper parties funds received from a purchaser for a title examination, real estate taxes and recording fees.

FRANCIS S. HAMILTON, JR. (Murphy) — By Consent, the Commission suspended Mr. Hamilton's salesman's license for twenty months effective May 15, 1989. The Commission found that Mr. Hamilton had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, conspiracy to possess marijuana with intent to distribute.

EMMA J. HURSH (Winston-Salem) — By Consent, the Commission reprimanded Ms. Hursh for failing to disclose to a seller that the purchaser in the transaction was Ms. Hursh's sister. The Commission noted that the sellers, however, were informed at closing, and that they elected to proceed with the closing.

THOMAS A. HYDE, III (Cumberland County) — By Consent, the Commission suspended Mr. Hyde's broker's license for five years effective May 15, 1989, and required him to complete the Commission's Trust Account Course. The Commission found that Mr. Hyde had failed to maintain rental money in a trust account and had failed to transfer in a timely manner security deposits and rents to a succeeding property manager.

JEAN D. JUDGE (Brevard) — By Consent, the Commission suspended Ms. Judge's broker's license for thirty days effective May 15, 1989. The Commission then suspended its Order. The Commission found that Ms. Judge had omitted a material fact in a real estate transaction by acting as an agent in the transaction without properly disclosing to the seller that she was a director and stockholder of the corporation which purchased the seller's property.

N. C. STATE MARKETING, INC. (Morehead City) — By Consent, the Commission revoked the corporate real estate license of N. C. State Marketing, Inc. effective May 11, 1989. The Commission found that the corporation had failed to maintain and deposit into a trust account the funds of others received in connection with the resale of time shares.

ROBERT E. O'SULLIVAN (Fayetteville) — By Consent, the Commission suspended Mr. O'Sullivan's broker's license for nine months effective June 15, 1989. The Commission found that Mr. O'Sullivan had pleaded *nolo contendere* to criminal offenses involving moral turpitude which would reasonably affect his performance in the real estate business; namely, misdemeanor larceny.

BENJAMIN PIGGIE (Sanford) — The Commission revoked Mr. Piggie's broker's license effective June 7, 1989. The Commission found that Mr. Piggie had improperly used the funds of others which had been entrusted to him, had failed to deposit the funds into a trust or escrow account, and had failed to remit rents and security deposits to his principal.

PAUL THOMAS POSEY (Murphy) — By Consent, the Commission suspended Mr. Posey's broker's license for two years effective May 1, 1989. The Commission found that Mr. Posey had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, conspiracy to possess marijuana with intent to distribute.

QUINELLA PARTNERS, INC. (Charlotte) — By Consent, the Commission suspended the corporate real estate license of Quinella Partners, Inc. for one year effective March 1, 1989. The Commission then suspended its Order and placed the corporation on probation for one year. The Commission found that Quinella Partners, as a licensed real estate brokerage corporation involved in real estate construction and development, had failed to maintain adequate records concerning earnest money deposits on construction contracts.

JOHN B. ROCAP (Durham) — By Consent, the Commission suspended Mr. Rocap's salesman's license for five and one-half years effective May 15, 1989. The Commission found that Mr. Rocap had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, conspiracy to unlawfully distribute the controlled substance LSD.

BILLY R. SNIPES (Rowan County) — By Consent, the Commission reprimanded Mr. Snipes for negligently misrepresenting material facts concerning the future paving of a road by reason of his failure to make an adequate inquiry into the factual basis for his representations.

OSCAR E. STEWART, III (Winston-Salem) — By Consent, the Commission reprimanded Mr. Stewart for failing, as Broker-In-Charge, to advise a salesman associated with his office to disclose to a seller that the purchaser in the transaction was the salesman's sister. The Commission noted that the sellers, however, were informed at closing and that they proceeded with the closing.

SUMMER WINDS ASSOCIATION, INC. (Indian Beach) — By Consent, the Commission accepted the voluntary surrender of the corporate real estate license of Summer Winds

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DISCIPLINARY ACTION

(Continued from Page 5)

Association, Inc. for one year effective May 25, 1989 and dismissed without prejudice certain charges against the corporation involving trust account recordkeeping and disbursements. The Commission noted that all funds had been properly accounted for prior to its investigation. The corporation neither admitted nor denied any misconduct.

THOMAS E. WALKER (Avery County) — By Consent, the Commission reprimanded Mr. Walker. The Commission found that Mr. Walker, as an officer and director of a property management corporation, had permitted the corporation to engage in business and receive compensation prior to obtaining a real estate license.

CRAIG A. WHITLEY (Charlotte) — By Consent, the Commission suspended Mr. Whitley's broker's license for one year effective March 1, 1989. The Commission then suspended its Order and placed Mr. Whitley on probation for one year. The Commission found that Mr. Whitley, as principal broker and Broker-In-Charge of a real estate corporation which was involved in real estate construction and development, had failed to maintain adequate records concerning earnest money deposits on construction contracts.

WRIGHTSVILLE BEACH REALTY, INC. (Wrightsville Beach) — By Consent, the Commission activated the five-year suspension of the corporate real estate license of the corporate real estate license of Wrightsville Beach Realty, Inc. effective June 1, 1989 for violating the terms of its previous Consent Order. ☐

buyer inquiring about future uses of adjoining property should be advised as to the present zoning but reminded that governmental restrictions on the use of real property are always subject to change.

And remember, "visual" representations

AIDS DISCLOSURE IN REAL ESTATE TRANSACTIONS

By

Anita R. Burt
Consumer Protection Officer

Hill Zollicoffer
Information Officer

In recent years, the number of persons afflicted with Acquired Immune Deficiency Syndrome (AIDS) has increased at an alarming rate. As a result, real estate brokers and salesmen are faced with the growing possibility of working with a client or customer who suffers from AIDS, and the Real Estate Commission is beginning to receive more inquiries from licensees on how best to handle transactions involving people who suffer from the AIDS virus. Is the fact that a buyer is affected by the disease considered a "material" fact? If so, must it be disclosed? And should prospective buyers be told that a seller, an occupant in the seller's house or a resident in the seller's neighborhood has AIDS?

"When questioned as to whether a prospective buyer, seller, or tenant has AIDS, agents should state that they are prohibited by law from answering such query."

In an attempt to answer these and other related questions, the Commission has studied actions taken by other real estate licensing authorities and state legislatures as well as consulting HUD officials on the application of the recently amended Federal Fair Housing

Act to AIDS victims. On the basis of the best and most recent scientific and medical evidence available, it appears that AIDS cannot be transmitted through the structure or furnishings of buildings. Furthermore, according to HUD officials, persons with AIDS are considered "handicapped" and thereby afforded protection against discrimination under the Federal Fair Housing Act. Consequently, it is unlawful for a real estate agent to discriminate against anyone who has AIDS, including revealing that a prospective buyer, seller, or tenant is afflicted with the disease. When questioned as to whether a prospective buyer, seller, or tenant has AIDS, agents should state that they are prohibited by law from answering such query.

In view of the preponderance of the medical evidence, the actions of other states, and the dictates of the Federal Fair Housing Act, the Real Estate Commission has adopted the prevailing position that "... occupancy or former occupancy of real estate by persons who are or have been infected with Human Immunodeficiency Virus or who have been diagnosed as having Acquired Immune Deficiency Syndrome (AIDS) is not a material fact that must be disclosed in a real estate transaction." However, real estate agents should be aware that the position taken by the Commission with respect to this issue will not immunize the agent against possible lawsuits and civil litigation from dissatisfied purchasers or disgruntled sellers resulting from the agent's nondisclosure of this information. ☐

DEVELOPMENT PLANS

(Continued from Page 4)

such as models, maps and other promotional materials are perhaps a more potent and effective form of representation than "verbal" or "written" statements; therefore, great care must be taken in their proper use in order to avoid misconceptions and misunderstand-

ings as to the developer's future plans. Furthermore, developers and their agents should make clear that the models, maps and other promotional materials are not a guarantee or obligation of the seller under the contract with the buyer. ☐

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