



NORTH CAROLINA
REAL ESTATE LICENSING BOARD

Real Estate Bulletin

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**A landmark book on real estate
theory and practice
geared exclusively to the
real estate agent practicing
in North Carolina.**

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THE NORTH CAROLINA REAL ESTATE LICENSING BOARD AND ITS POWERS

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**THIS IS THE LICENSING
BOARD'S NEW BOOK
FOR N.C. REAL
ESTATE BROKERS
& SALESMEN**

**AVAILABLE THROUGH
LOCAL BOOK STORES**

REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate Licensing Law, Rules and Regulations, and proficiency in ethical real estate practice.

NORTH CAROLINA REAL ESTATE LICENSING BOARD

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Raleigh, North Carolina 27602

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NEW BOARD MEMBER



Edwin W. Tenney, Jr.

Edwin W. Tenney, Jr., of Chapel Hill has been appointed a member of the North Carolina Real Estate Licensing Board by Governor James E. Holshouser, Jr., and took his oath of office on February 20, 1974.

"Ed", as he is popularly known, is a native of Chapel Hill, N. C., where he attended the public schools of North Carolina and has been a life-long resident of North Carolina except for war-time service and five years in South Carolina.

He received his AB degree from the University of North Carolina and pursued graduate study at Furman University. During World War II, he enlisted in the Marines where he saw duty in the European and American Theatres and gained four battle stars in the Pacific against the Japanese. During the Korean War, he rose through the ranks to captain, commanding two combat batteries, and winning several personal decorations.

From 1954 until 1956 he was Director of Student Personnel at Furman University. For twelve years he was in educational sales and promotion in publishing textbooks. He has been a licensed real estate broker since 1962, is Vice President of the Chapel Hill Board of Realtors and is active in the real estate, construction and insurance business. He is Chairman of the Board of Ed Tenney & Associates, with offices in Durham, Chapel Hill and Hillsborough, as well as Chapel Hill Development Company.

Mr. Tenney was chairman of the Republican Party of Richland County, Columbia, South Carolina in 1960. He returned to his home in Chapel Hill in 1961 and was elected to the Chapel Hill School Board in 1963. In 1968 he was a candidate for Republican nomination to the U. S. Senate. He is a member of the Chapel Hill University Methodist Church, past President of the Chapel Hill Athletic Club, a Mason, former Rotarian, and member of the American Legion. Currently, Mr. Tenney is President of the UNC Alumni Association, Orange County branch, a former member of the Board of Directors of Chapel Hill — Carrboro Chamber of Commerce, member of Foxfire Country Club, Chapel Hill Country Club and TOBAC Club.

Mrs. Tenney is the former Anita Lambur and they have two children; Julie, age 21, and Mark, age 18.

In February, 1973, he was awarded the "Boss of the Year" award by the Chapel Hill-Carrboro Jaycees.

LICENSE STATISTICS

Licensees as of December 31, 1973
Brokers 16,035
Salesmen 3,893
19,928

Examination—October, 1973

	PASSED	FAILED
Brokers	418	213
Salesmen	101	58

Examination—November, 1973

	PASSED	FAILED
Brokers	412	206
Salesmen	136	77

NO EXAM IN DECEMBER

LICENSES SUSPENDED-REVOKED

HENRY E. BAUCOM — WINSTON-SALEM — broker — suspended for one year and HENRY & ASSOCIATES, INC. — revoked — effective February 28, 1974 — violation of G. S. 93A-1 and G. S. 93A-6 (7), (12).

JOSEPH R. ELLIS — WILSON — broker — suspended for one year effective February 28, 1974 — violation of G. S. 93A-1 and G. S. 93A-6 (7), (12).

RECIPROCITY

The North Carolina Real Estate Licensing Board has suspended reciprocity, insofar as waiver of the examination for real estate license is concerned, with Virginia and Maryland. This action was taken because of new requirements adopted by these states which the Board considered as not being in the best interests of North Carolina licensees. This action means that applicants from these states will be required to take the North Carolina examinations. The Board hopes that mutually satisfactory arrangements may be worked out whereby the examinations may again be waived in the case of licensed non-resident applicants.

The Board continues to exchange reciprocity with the following states:

Alaska
Arkansas
Connecticut
Delaware
District of Columbia
Georgia
Indiana
New Jersey
South Carolina
Tennessee
Texas
West Virginia

INFORMATION FOR REAL ESTATE LICENSE APPLICANTS

1. **APPLICATION:** Candidates for license as real estate brokers or salesmen are furnished an Application Form, Registration Form, copies of the Licensing Law and Rules and Regulations and a Bulletin of Information concerning the real estate examinations.
The application and registration forms must be fully completed or they will be returned.
2. **1974 EXAMINATION SCHEDULE:** The examination and filing dates for the 1974 examinations are listed below. The Licensing Board reserves the right to change the examination schedule without prior notice. The completed application and registration form must be received (not postmarked) in the Board office on or before the filing date established for a particular exam in order to be processed for that exam. (Under no circumstances will this or other requirements or rules be waived.)

FILING DATE

March 22, 1974
April 19
May 24
June 21
July 19
August 23
September 20
October 18

BROKER & SALESMAN EXAMS

April 27, 1974
May 25
June 22
July 27
August 24
September 28
October 26
November 23
NO EXAM IN DECEMBER

3. **TEST CENTERS:** The examinations are administered by Princeton Educational Testing Service at test centers in the following cities: Asheville, Charlotte, Greensboro, Kinston and Raleigh. Applicants will indicate on the registration form filed with their application, the center at which they wish to be tested, however, the Board reserves the right to assign applicants to other test centers. The tickets of admission to the exam will indicate the name and address of the applicant's test center.
Tickets of admission to the examinations will be mailed to scheduled applicants by Princeton ETS approximately ten (10) days before the exam. **Applicants not receiving a ticket by three (3) days before the exam should call (at their own expense) Princeton Educational Testing Service, Real Estate Program, phone 609/921-9000 for instructions.**
4. **FILE ONE APPLICATION:** A person may make application for either a broker's license or a salesman's license but may not have both pending at the same time. If application has been filed for one type of license, it must be concluded or cancelled before another application is filed for the other type of license. Always contact the Licensing Board office before filing a second application if a previous application is pending.
5. **PROCESSING THE APPLICATION:** Once the application has been filed and processed, the application fee will not be refunded. An applicant is given two opportunities to appear for the exam as follows: An applicant who has been scheduled for exam and does not appear or fails the exam will be automatically re-scheduled for the exam held two months later. If he again does not appear or fails the second exam, he will be required to file a complete new application and fee, if he wishes to continue. **(This procedure is automatic and it is not necessary for the applicant to call or write the Board if he is not able to appear for examination for any reason.)**
6. **EXAMINATION GRADING:** The examinations are graded by computer at Princeton Educational Testing Service. In order to pass the examination, applicants are required to score a minimum of 60% correct on each section of the exam (not 60% overall) as follows:

BROKER

Part A 18 correct of 30 questions
Part B 12 correct of 20 questions
Part C 30 correct of 50 questions
Part D 18 correct of 30 questions

SALESMAN

Part A 18 correct of 30 questions
Part B 24 correct of 40 questions
Part C 18 correct of 30 questions

Exam results will be mailed to applicants by the Licensing Board approximately three weeks after the examination and licenses issued approximately one week later.

7. **SUGGESTED TEXT:** The Licensing Board's new real estate manual is now available through local bookstores or the publisher:

NORTH CAROLINA REAL ESTATE FOR BROKERS AND SALESMEN

by James A. Webster, Jr.

(Copyright by North Carolina Real Estate Licensing Board)

Prentice-Hall, Inc.

Englewood Cliffs, New Jersey 07632

LIABILITY FOR BREACH OF CONTRACT

In the recent North Carolina case of *Helms v. Investment Company* 19 N. C. App. 5, the plaintiffs instituted a civil action in Mecklenburg County Superior Court to recover damages for breach of contract. The facts out of which the action arose are substantially as follows:

The plaintiffs purchased a tract of land from the defendants and simultaneously with the execution of a deed, the defendants executed a "Representation and Guaranty" which provided that defendants represent and guarantee to the purchasers that within six months water and sewer lines will be extended to the property line of the described premises, without any cost or expense to the purchasers, so as to render such water and sewer facilities available to said premises. It is understood and agreed that the purchase price being paid by the purchasers for said premises is based upon this representation and guaranty.

Defendants did not provide the water and sewer facilities as agreed and in answer to the complaint admitted the execution of the guaranty but asserted they were unable to comply with their contract because they were prohibited from doing so by the governmental authorities of the City of Charlotte and Mecklenburg County on account of potential pollution problems in the area.

From a judgment in favor of the plaintiffs, the defendants appealed to the North Carolina Court of Ap-

peals which affirmed the lower court. In its opinion, the Appeals Court cited the following principles of contract law:

"As a general principle, nonperformance of a contract is excused where performance is rendered impossible by the law, provided the promisor is not at fault and has not assumed the risk of performing, whether impossible or not."

"The terms of a contract may be such that, expressly or by construction, one of the parties assumes the risk of subsequent governmental interference preventing his performance of his undertaking."

"Undoubtedly, a competent party may, by an absolute contract, bind himself to perform things which subsequently become impossible or to pay damages for the nonperformance."

"Where a party enters into a contract knowing that permission of government officers will be required during the course of performance, the fact that such permission is not forthcoming when required does not constitute an excuse for nonperformance."

"The general rule is that performance of antecedent obligations may not be excused by subsequent inability to perform on account of unexpected difficulties or unforeseen impediments, short of prevention by wrongful act or conduct of the other party to the contract."

The Court then said:

"In applying these principles of law to the present case, it seems clear that before the plaintiffs would agree to purchase the tract of land involved, they demanded as-

urance that water and sewer facilities would be made available within a six-month period. To induce the plaintiffs to make the purchase, the defendants, both corporate and individual, executed a separate and unconditional guaranty that the water and sewer facilities would be provided within six months."

"This guaranty was clear and unequivocal in its terms and placed on the defendants the absolute responsibility for performance regardless of any contingency. The defendants by every reasonable interpretation assumed the risk of subsequent governmental interference which might prevent performance of their obligation. In view of the current emphasis upon pollution problems in metropolitan areas, the parties may or in the exercise of reasonable care should have anticipated that they might encounter some difficulty in providing the necessary water and sewer facilities for this particular tract of land. The insistence upon the guaranty by plaintiffs and that it be signed by the individual defendant is some indication that this likelihood was within the contemplation of the parties."

"We hold that the defendants under the terms of their guaranty to plaintiffs have assumed the risk that the governing authorities of the city of Charlotte and Mecklenburg County might interpose objections to the extension of water and sewer lines to property sold by them to the plaintiffs and are liable to the plaintiffs for any damages sustained by their failure to perform their contract."

BROKERS REQUIRED TO MAINTAIN TRUST FUND RECORDS

The Real Estate Licensing Law, section 93A-6(c), provides that:

"Records relative to the deposit, maintenance, and withdrawal of the money or other property of his principals shall be properly maintained by a broker and made available to the Board or its authorized representative when the Board determines such records are pertinent to the conduct of the investigation of any specific complaint against a licensee."

NORTH CAROLINA
REAL ESTATE LICENSING BOARD
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