



NORTH CAROLINA REAL ESTATE LICENSING BOARD

Real Estate Bulletin

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From the Board Room

BREWER ELECTED CHAIRMAN

At its January meeting, the Licensing Board elected Board Member Joe O. Brewer to serve as its Chairman, effective February 1, 1977. Mr. Brewer, a Wilkesboro attorney, became a member of the North Carolina Real Estate Licensing Board on August 14, 1974 by appointment of Governor James E. Holshouser, Jr. Rufus L. Brock of Mocksville will continue to serve in the capacity of Vice-Chairman. The Board commended Edwin W. Tenney, Jr. for his performance as Chairman during his term of office.

RULES AND REGULATIONS UNCHANGED

Following notice to the public (see fall *Bulletin*), the Licensing Board met on December 15, 1976 to consider possible changes in its Rules and Regulations primarily involving license renewals. After discussing certain administrative problems which would be created by such changes, however, the Board voted not to enact any changes in its Rules and Regulations at this time. Consequently, **all real estate licenses will continue to be renewed on a one-year basis.**

SECRETARIES, RECEPTIONISTS, UNLICENSED EMPLOYEES

The unlicensed secretary or receptionist in a real estate office is placed in a rather precarious position. Although her duties ordinarily include greeting visitors and receiving telephone inquiries from prospective clients, she must be ever mindful not to provide such information or perform such acts which require a real estate license. Consequently, brokers often ask the question "What information can my

secretary furnish to prospective customers concerning our company's listed properties?"

The Licensing Board feels that **secretaries, receptionists, or other unlicensed employees of a licensed real estate broker should provide only such information about listed properties as would normally appear in a simple, classified newspaper advertisement; eg. location, price, number of rooms.**

Unlicensed personnel may not, of course, show listed properties to prospective purchasers or tenants, negotiate or discuss terms of sale, prepare offers, leases, closing statements or other related instruments, or perform any other acts requiring a real estate license. Brokers knowingly permitting their unlicensed employees to engage in such activities risk disciplinary action from the Board.

The Board advises brokers to prepare a written office policy for their unlicensed employees explaining "do's" and "don'ts" in answering the telephone and office inquiries.

LICENSE RENEWAL?

Although your real estate license will not expire until June 30, 1977, preparations are already underway to renew your license for 1977-1978. To expedite the renewal of your license, the Board asks that you strictly comply with Rule .0103 and report all changes of address to our office within 10 days of said change. If the address shown on this *Bulletin* is not your current address, immediately notify the Board in writing of your current address if you have not already done so.

LICENSING BOARD OFFICE CLOSED ON MONDAYS

In compliance with Governor Hunt's executive order regarding energy conservation in State government agencies, the Licensing Board office is now closed on Mondays.

Until otherwise instructed by the Governor, the Licensing Board will observe the following office hours:

7:30 A.M. - 6:00 P.M.
Tuesday through Friday

Our telephone number is 919/-833-2771.

CONTRACTS OF ASSOCIATION

Although the Licensing Board is constantly being called upon to arbitrate disputes between licensees in matters of employer/employee relations, Rule .0109 states that the Board "... has no jurisdiction to settle disputes between parties concerning such matters of contract as the rate of commissions, the division of commissions, pay of salesman, and similar matters."

To avoid possible misunderstandings between your employees, independent contractors or associates, the Board suggests that some form of written employment agreement or contract of association agreement be prepared and entered into which sets forth the terms of association. You are strongly advised, however, to seek legal counsel in the preparation of such agreements.

On the Inside . . .

Questions & Answers
on Trust Accounts

Who Holds Earnest Money
Meet the Staff

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

115 Hillsborough St.
Raleigh, North Carolina 27602

James B. Hunt, Jr., Governor

BOARD MEMBERS

Joe O. Brewer
Chm. Wilkesboro
Rufus L. Brock
V. Chm. Mocksville
J. Edward Poole Spring Lake
C. Bayless Ridenhour Concord
Edwin W. Tenney, Jr. Chapel Hill

Blanton Little Sec'y. Treas.
Phillip T. Fisher Admin. Asst.

COMPLAINT PROCEDURE

Almost daily, the Real Estate Licensing Board receives calls or letters complaining about the conduct of real estate brokers and salesmen.

When a letter reveals on its face that the Board has no jurisdiction in the dispute, the matter is dismissed by the Board at its next regular meeting; but if the complaint concerns matters which are within the Board's province, the complainant is required to set forth his allegations on a form supplied by the Board which must be sworn to and subscribed before a notary public. If necessary, the verified complaint is then referred to one of the Board's field representatives for investigation.

After the investigation has been completed, the Board's legal counsel presents the allegations, statements, and any evidence in connection therein at a board meeting for the Board to determine whether there is probable cause to believe that the licensee has violated the Licensing Law. The identity of the licensee is not disclosed to the Board at this stage. If the Board finds probable cause to believe that the licensee has acted in violation of the

(Continued on Page 4)

QUESTIONS AND ANSWERS ON TRUST ACCOUNTS

(Continued from Summer Quarter Issue)

- Q. As a broker, I realize that I must not disburse trust funds which are being claimed by different parties to the transaction. My question is simply, how can I determine if such a dispute exists?
- A. If you are in doubt as to whether a dispute exists regarding the disposition of trust funds, the Board suggests that you notify all parties who have an interest in such funds advising them that you intend to disburse the funds on a given date unless an objection is filed with you prior to that date. The notice should be sent registered mail return receipt requested and should contain the date on which the funds will be disbursed (allow sufficient time for parties to respond), and the name(s) of the person(s) to whom the money will be disbursed. Should one of the parties object to your intended disbursement, you should inform the other party of the objection and declare to all parties that you will retain the funds in your trust account until disbursement is ordered by a court of competent jurisdiction or until the matter is satisfactorily settled by the parties.

WHO HOLDS EARNEST MONEY – LISTING BROKER OR SELLING BROKER?

The basic concept of earnest money, is to make a deposit with "a third disinterested party" to hold, to assure the completion of the contract by the buyer. Originally all earnest money was placed with a trusted banker or other party that was agreeable to the buyer and seller. In modern practice the broker asking for the earnest money usually has taken the initiative and asked that the earnest money be deposited with him.

Since a large number of real estate transactions today involve the MLS and therefore two brokers, the obvious question arises as to who will hold the earnest money. Minnesota in Minn. Reg. SDiv. 1505 (a)(1) says: "Unless otherwise agreed upon in writing by the parties, the broker with whom trust funds are to be deposited in satisfaction of Section 8, shall be the listing broker."

In the absence of a special statute, the common law would also agree that the listing broker is the proper party to hold the escrow funds, as between the brokers. The cooperating broker has little rights in the transactions, except as they flow through the listing broker. His only right to show the property, write a contract, accept earnest

money, or participate in the commission, flows through the listing broker's contract with the Owner. It is not uncommon for the listing contract between listing broker and Owner to specifically state that the listing broker only shall hold the earnest money.

What happens if the selling broker, in spite of the above, asks the buyer to make the check payable to him? The brokers are paid to negotiate all matters in controversy between the buyer and seller, such as price, terms, possession and who holds the earnest money. The matter should fall back on the selling broker to advise the buyer that the seller would prefer another trustee. The listing broker should never be so anxious to sell, that he ignores the right of his principal to have the trust funds placed as he desires.

CAVEAT: The common law and some state statutes or regulations provide that the listing broker shall have prior right to hold the trust funds, as between the brokers. The buyer and seller have the final say, by agreeing who shall be the holder of the trust funds.

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MEET THE STAFF

Amid the clatter of typewriters and the ringing of telephones, the Licensing Board goes about its appointed duties — issuing licenses, processing applications, maintaining records, scheduling examinations, balancing books, preparing reports, filing records, etc. But since almost all contact with the Board's offices is by letter or telephone, few licensees ever meet the individuals who conduct the Board's day-to-day business.

We now invite you to meet those persons responsible for performing the multitude of behind-the-scenes activities enabling the Licensing Board to serve the general public and service its licensees. With pleasure we introduce the staff of the North Carolina Real Estate Licensing Board.



GLORIA T. WILLIAMS
APPLICATION PROCESSOR

An employee of the Licensing Board since 1971, Mrs. Williams processes all applications for broker and salesman licenses and schedules applicants for license examinations. She also receives and processes all requests for non-resident licenses under our reciprocal licensing agreements with the real estate commissions of the various states across the country.

Questions regarding the completion and status of applications for licenses should be directed to Mrs. Williams.



NAOMI COTTLE
RECORDS CLERK

Mrs. Cottle is charged with the formidable task of maintaining current records of all brokers, salesmen, and corporations licensed by the Board. Her duties also include supervising and co-ordinating the annual renewal of the licenses and preparing official Certificates of Licensure certifying the status of licenses.

Changes of address, business name, and all other changes affecting your real estate license should be immediately reported to Mrs. Cottle.



DIANNE NOBLES
FINANCIAL/CLERICAL SUPERVISOR

The senior member of the Licensing Board staff, Mrs. Nobles is secretary to Blanton Little and is responsible for all correspondence from the Secretary-Treasurer's office and from the Board's legal counsel. In her capacity as bookkeeper for the Licensing Board, Mrs. Nobles also maintains all financial and personnel records and prepares monthly and yearly reports for use by the Board and other state agencies.



LINDA NEESE
SALESMEN/CORPORATIONS CLERK

Mrs. Neese is responsible for issuing all broker, salesman, and corporation real estate licenses. Her duties also include processing applications for real estate licenses to be issued to corporations and assisting salesmen in the transfer of their licenses to new supervising brokers.

Inquiries regarding the completion and status of corporate real estate licenses and the transfer of salesmen's licenses should be addressed to the attention of Mrs. Neese.



JEANETTE JOYNER
SECRETARY/RECEPTIONIST

The newest member of the staff, Ms. Joyner is secretary to the Administrative Assistant. In addition to her secretarial duties, she also serves as principal receptionist and is responsible for answering the large volume of requests for license applications from both individuals and schools offering approved real estate courses.

Contact Ms. Joyner for license applications and other related forms and information.

COMPLAINT PROCEDURE

(Continued From Page 2)

Licensing Law, a hearing is ordered. If not, the complaint is dismissed.

When the Board orders a hearing, the licensee receives written notice of the hearing informing him of the allegations and charges against him as well as the particular statutes involved. One or more Board members preside(s) at the hearing which is held in either the county where the licensee resides, or, in the discretion of the Board, Wake County. Evidence for the complainant is presented by a member of the Attorney General's staff or by the complainant's attorney and, thereafter, the licensee may present evidence in his defense. Testimony is recorded, and all evidence is received in accordance with the general rules of evidence governing trials in the General Court of Justice.

After all Board Members have reviewed the evidence a final decision is reached. If the decision is to suspend or revoke a license the Board enters this order based upon written findings of fact and conclusions of law. The licensee may appeal the Board's decision to the Superior Court of Wake County.

In lieu of a formal hearing counsel for the Board and the licensee may enter into a written agreement or stipulation stating the facts involved and the violations committed. If the Board approves and accepts the stipulation, it will enter the order of reprimand, suspension or revocation agreed to by the licensee and counsel for the Board.

EXAM RESULTS

Examination — November, 1976

	Passed	Failed
Brokers	549	279
Salesmen	90	51

Examination — January, 1977

	Passed	Failed
Brokers	563	389
Salesmen	86	46

RULE .0101 DISPLAY OF LICENSE

The license of a broker and the license of each broker and salesman in his employ or under his supervision shall be prominently displayed at the broker's business address.

Disciplinary Action

RICHARD MICHAEL LEONARD, Raleigh — Broker's License No. 32510 suspended for ninety (90) days for violation of G.S. 93A-6(a) (15) and Rules .0105 and .0103 of the Rules and Regulations of the Board (placing numerous "blind ads" in a newspaper, showing only a telephone number and failing to notify Board of change of residence and business addresses).

PAUL J. LAWRENCE, Fayetteville — Broker's License No. 6767 suspended for one hundred eighty (180) days for violation of G.S. 93A-6(a)(8) (purporting to sell a lot when he did not own the lot or have any authority to enter into a contract for its sale).

WILBERT W. EDGERTON, Fayetteville — Broker's License No. 20506 revoked for violating G.S. 93A-6(a)(7) (Failing, within a reasonable time, to account for or to remit monies coming into his possession which belonged to others) and G.S. 93A-6(a) (12) (failing to deposit in an escrow or trust account rent monies received for his principal).

REGINALD J. HENDERSON, Greensboro — Broker's License No. 20699 revoked for violating G.S. 93A-6(a) (revocation based on conviction in superior court for embezzlement).

JOHN WAYNE WILLIAMS, Fayetteville — Broker's License No. 34771 revoked for violation of G.S. 93A-6(a)(7) and (10) (failing to remit the proceeds from the sale of real estate after receiving proceeds of sale), and G.S. 93A-6(a)(8) (being unworthy to act as a real estate broker).

CLARK H. CALLAHAN, Vass — Broker's License No. 24592, reprimanded for violation of G.S. 93A-6(a)(9) (paying valuable consideration to unlicensed persons for acts or services in violation of this chapter).

JUDITH ANN SHIPMAN, Asheville — Salesman's License No. 28184 revoked for violation of G.S. 93A-6(a)(12) (failure to deposit money received by her in an escrow account while acting as a real estate salesman) and G.S. 93A-6(a)(8) (being unworthy to act as a real estate salesman by operating without the supervision of a real estate broker).

Have Your Salesmen Read the Bulletin?

NORTH CAROLINA
REAL ESTATE LICENSING BOARD
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