

COMMISSION COMMENT

Summer

2000

SELLER PROPERTY CONDITION DISCLOSURE STATEMENT—REVISITED

In the Winter, 1999, edition of the *Commission Comment*, the Nebraska Real Estate Commission discussed disciplinary actions against licensees involving the Seller Property Condition Disclosure (SPCD) Statement. Specifically, the Commission addressed the issue of the licensee's duty to review the SPCD Statement for omissions. In that article, the Commission concluded that the licensee has an obligation to review the SPCD Statement.

The Commission identified several obligations of the licensee. The agent of the seller is required to assure that a copy of the SPCD Statement is delivered to the purchaser before the effective date of a contract. The agent of the purchaser is required to assure that a copy of the SPCD Statement is delivered to the purchaser prior to the effective date of a contract and obtain the signed receipt of the purchaser. Whether the licensee is the agent of the seller or the agent of the buyer, if the licensee

knows of an error, inaccuracy or omission in a SPCD Statement, the licensee must disclose the error, inaccuracy or omission, to the potential purchaser and the seller by attaching a written disclosure to the SPCD Statement.

The Commission determined the licensee has an obligation to review the SPCD Statement and disclose an omission. When the seller fails to complete a section or a question(s), the listing agent has the obligation to disclose the omission. The disclosure to the seller is as simple as informing him or her that a section is incomplete and it requires completion. If the seller does not correct the omission, the licensee should attach a written notation to the SPCD Statement regarding the omission. When the buyer's agent presents the SPCD Statement to the prospective purchaser, the buyer's agent should also review the document and disclose, in writing, any omission.

Following the publication of the original Article, several licensees met with the Commission at its regular meeting. The Commission agreed to request an opinion from the Attorney General's office regarding its interpretation. The Attorney General has issued an opinion on the require-

ments of the real estate licensee with regard to the SPCD Statement. (A copy of the entire opinion may be obtained by visiting the Attorney General's website at: www.nol.org/home/ago/opinions/00024.htm.) The Attorney General cautions that the opinion only addresses the obligations of the licensee in the context of the Commission's role in disciplining real estate licensees and does not address the civil liability of the licensee.

Specifically, with regard to these issues the Attorney General's opinion provides:

1. "Construing together the statutes (sic) and regulations pertaining to real estate licensees, it is not unreasonable to expect an agent to read those documents as he or she assists the client with the necessary paperwork."
2. "...we found no affirmative duty on the part of an agent either to inspect the real property in question or to independently verify the accuracy of written information prepared by the client"
3. "In our opinion, the licensee can be expected to read the statement, but need not investigate its accuracy."
4. "Therefore, with regard to the ground for discipline found at 299 NAC 5, 5-003.25, a

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Commission Meeting Schedule

July 25-26, 2000	Lincoln
August 23-24, 2000	Lincoln
October 2-3, 2000	TBA

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COMMISSION COMMENT

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The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.

FROM THE DIRECTOR'S DESK

Legislation Dies

The two pieces of legislation regarding amendments to the Time Share Act and allowing additional financial institutions to hold real estate trust accounts were not enacted during the last session.

Consideration will be given to introduction of similar legislation in the next session of the Legislature.

Anonymous Inquiries

Although anonymous inquiries have decreased, the Commission Office still receives them from time to time. As has been indicated in the past, many times there is confusion on the part of the person making the inquiry or the situation, about which the inquiry is made, is not as it appears after Commission staff have looked into the matter.

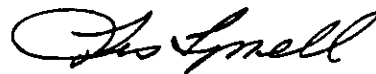
If the person making the inquiry, sending the advertisement or whatever had identified himself or herself, the Commission staff could report the findings to that person. Not being able to contact the person making the inquiry can leave that person thinking that nothing was done.

Therefore I am, again, requesting that you include in any inquiries a way for Commission staff to contact you either to correct a misconception or to attain additional information if it is necessary. We appreciate your cooperation.

Service Satisfaction Survey Response

I would like to thank those of you who took the time and the opportunity to respond to the Service Satisfaction Survey published in the Spring Commission Comment. By the time you read this the Commission will have already reviewed the survey responses. Your contribution to this process will help to affirm the things that we do well and to indicate areas where improvement can be made.

There will be additional opportunities to participate in this ongoing survey. We will be sending out surveys, at random, to those to whom we provide service during the months of June and September. We will also run the survey, again, in next Spring's Commission Comment.



Les Tyrrell,
Director Nebraska Real Estate Commission

MEET THE REAL ESTATE COMMISSION STAFF

(Seller Property Condition Disclosure Statement-Revisited from page 1)

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff. If you have comments or suggestions as to how we may better serve you, please contact our office.

COMMUNICATIONS GUIDE

Ask for person indicated if you have questions in the following areas.

Commission Meeting Information	Heidi Burkland InfoTech@nrec.state.ne.us
Complaint Procedures	Terry Mayrose DDEnf@nrec.state.ne.us
Continuing Education History or Inquiries	Julie Schuur EdEnf@nrec.state.ne.us
Curriculum Design (Education & Instructor Approval)	Teresa Hoffman DeputyD@nrec.state.ne.us
Errors and Omissions Insurance Inquiries	Teresa Hoffman DeputyD@nrec.state.ne.us
License Applications Packet Requests	Vera David-Beach
License Applications Process	Nancy Glaesemann Applic@nrec.state.ne.us
Licensing and Education Requirements	Teresa Hoffman DeputyD@nrec.state.ne.us
New Licenses in Process	Nancy Glaesemann Applic@nrec.state.ne.us
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Webmaster	Monica Wade Finance@nrec.state.ne.us

licensee should only be disciplined based on his or her actual knowledge of an error, inaccuracy, or omission."

Based on the Attorney General's opinion, the Commission reiterates its determination that the licensee should review the SPCD Statement. The review is not long, nor is it complicated. The review will allow the licensee the opportunity to make the disclosure as required pursuant to regulation. This review and disclosure is not the same as an inspection or independent verification of the contents of the SPCD Statement. The licensee is not required to inspect the property or independently verify the condition of the property to insure the seller accurately disclosed matters and conditions on the SPCD. However, to disclose known errors, inaccuracies or omissions, the licensee should review the form. When the seller has completed the document, the seller usually presents it to the licensee, either the buyer's agent or the seller's agent. The licensee should then review the form. If the licensee sees that the seller has not completed the entire form even after calling it to the seller's attention, the licensee should inform the seller and any prospective purchaser, in writing, that the form is not complete. Likewise, if the licensee observes that the seller states the roof does not leak, yet the licensee knows, based on statements made by the seller (or other evidence), that the roof leaked when it rained, and the seller has not repaired the leak, the licensee should inform the seller and

any prospective purchaser, in writing, of the error or inaccuracy in the SPCD Statement. The written disclosure applies to any error or inaccuracy of which the licensee knows.

The Commission is hopeful that licensees will review the form to protect themselves from potential liability. Deliberately avoiding the issue is not a defense and does not protect the licensee from his or her responsibility to inform the seller and prospective purchaser of the error, inaccuracy or omission on the SPCD Statement.

The civil liability of the licensee was addressed in the recent case, *Bohm v. DMA Partnership and Home Real Estate, Inc., Grand Island, 8 Neb. App. 1069, 607 N.W.2d 212 (2000)*. The court in *Bohm* stated that to bring a civil cause of action against a licensee, the purchaser of real estate must allege that the SPCD Statement was actually provided by the seller, the seller knowingly provided a statement containing an error, inaccuracy or omission, and the licensee knows that the seller had actual knowledge of the error, inaccuracy or omission at the time the seller provided the statement. The seller's failure to make these allegations resulted in the case against the licensee being dismissed. The *Bohm* case is a prime example of the differences between the licensee's civil liability and responsibilities under the license laws. The Commission urges that the licensee consult personal legal counsel if questions arise regarding the difference.

TELEPHONE NUMBER
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ADDRESS:
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We've Got Mail!!

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population. With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.



Risk Management Seminar Offered

Week of September 24, 2000

As a part of the services provided by Williams Underwriting Group, Inc., the Program Administrator for the Errors and Omissions Insurance Program offered through the Real Estate Commission, a series of eight seminars, open to all licensees, will be conducted on the topic of Risk Management as it applies to real estate licensees. The sessions will be held the week of September 24, 2000.

The Risk Management Seminar will be conducted by Dick Williams, Ph.D., CPCU, who is Chairman of Williams Underwriting Group, Inc.

At the end of each session, when Mr. Williams has concluded, time will be available for licensees to ask questions of Commission Director Les Tyrrell with regard to issues relating to the License Act and other laws administered by the Commission. As available, Members of the Commission will also be in attendance at the sessions.

The sessions will offer preventive strategies for use by licensees in reducing risk. Topics include:

- A. Claims Review of Nebraska's Group Program
- B. Mergers, Acquisitions & Buy-outs ("Who Needs Tail Coverage")
- C. Why Claims Get Denied
- D. Risk Reduction Discussion
- E. Review Optional Coverage Available
- F. Question and Answer Period

There is no charge for attending these information sessions. We would, however, request that the Registration Form located on page 14 be completed and returned so that we can have enough seating available for those who wish to attend.

Continuing education credit will not be available for these sessions. For those licensees who have their errors and omissions insurance with Trumbull Insurance Company through the Commission-offered plan, these seminars are an added benefit of your premium payments. For those licensees who carry equivalent coverage with other errors and omissions insurance carriers, the information provided will be applicable and beneficial to you as well.

Each session is scheduled as follows:

September 25, 2000--Scottsbluff
9:00 a.m.--12:00 p.m.

Western Nebraska Community College/
Center for Business & Industry Training
250587 Airport Dr.
Room 103

September 26, 2000--North Platte
8:30 a.m.--11:30 p.m.

MidPlains Community College
McDonald Belton Campus
601 W. State Farm Rd.
Theater

September 27, 2000--Kearney
8:30 a.m.--11:30a.m.

Holiday Inn (formerly Ramada Inn)
110 2nd Ave.
(check at site for room assignment)

September 27, 2000--Grand Island
2:00 p.m.--5:00 p.m.

Central Community College
3134 W. Highway 34
College Park Auditorium

September 28, 2000--Norfolk
8:30 a.m.--11:30 a.m.

Northeast Community College
801 E. Benjamin Ave.
Lifelong Learning Center, Room F

September 28, 2000--Columbus
2:00 p.m.--5:00 p.m.

Central Community College
4500 63rd St.
West Education Center, Room 205

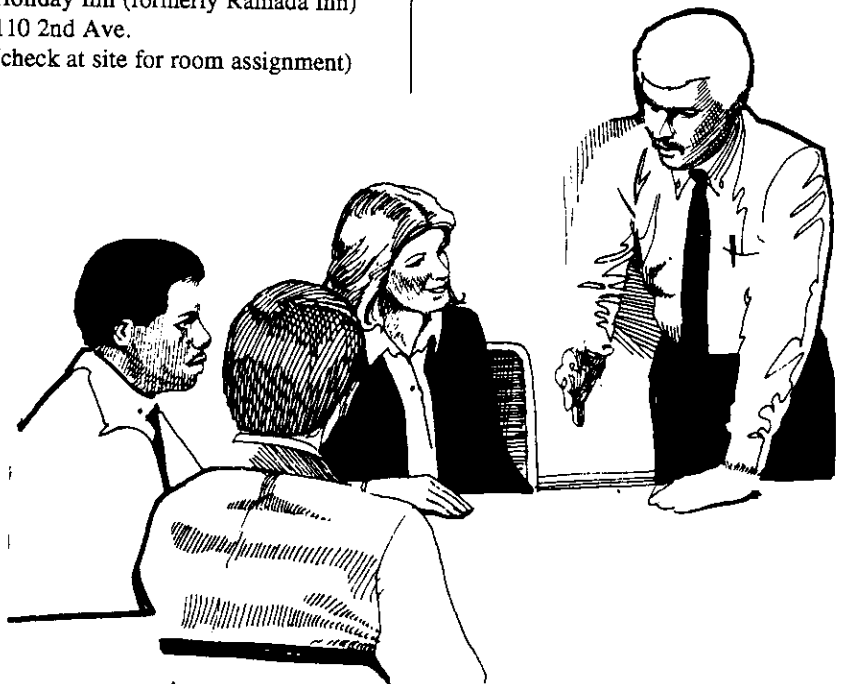
September 29, 2000--Lincoln
8:30 a.m.--11:30 a.m.

Ramada Inn Airport
1101 West Bond Street
Apollo/Lindbergh/Kitty Hawk Rooms

September 29, 2000--Omaha
2:00 p.m.--5:00 p.m.

Crowne Plaza Old Mill
655 NO 108th Ave.
Regency Ballroom

If planning to attend please submit
Registration Form (or copy of same)
found on page 14.



Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

1999-027 - C. R. Murphey vs. Deloris Marie Weber, broker and Roger Leroy Weber, salesperson. Roger Leroy Weber: Dismissed. Deloris Marie Weber: Stipulation and Consent Order. License censured plus an additional three (3) hours of continuing education in the area of contracts to be completed by September 20, 2000. (Violated Neb.Rev.Stat. § 81-885.24(29) by demonstrating negligence in acting as a broker by failing to have Murphey and his wife initial the Listing for Lease Agreement on which the word "new" was stricken and the word "leasing" was added, or to provide Murphey a copy of the Listing for Lease Agreement with changes.) March 21, 2000

1999-031 Robert L. & Charlotte A. Hester vs. Betty Wilda Bates, salesperson, and Nancy Karel Hernandes, broker. Hernandes: Dismissed. Bates: Stipulation and Consent Order. License suspended for six (6) months from April 1, 2000 through September 30, 2000, with first twenty (21) days of said suspension served and the remaining time stayed and served on probation; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of disclosure to be completed by September 23, 2000. (Violated Neb.Rev.Stat. § 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the

public and consistent with the Nebraska Rules State License Act, to wit: Title 299, N.A.C. Chapter 55-003.20 by failing to disclose an adverse material fact, in writing, prior to the time the Buyers signed the Offer to purchase; § 81-885.24(29) by demonstrating negligence to act as a salesperson.)
March 24, 2000

NEWS ON LICENSING EXAMINATIONS

Examination Site Relocated

Applied Measurement Professionals (AMP) has moved the Testing Center previously located in LaVista to the H & R Block offices at 1309 Harlan Dr. in Bellevue. The Center relocated the week of May 22.

This is a positive move. The new location is approximately 10 miles from the old one. The new facility has much improved access, better parking, and the testing area is larger.

Notices have been inserted in all application packets for some time now alerting applicants to this change. Revised Candidate Information Handbooks from AMP were made available as of June 1, 2000.

Examination Fee Increases \$1.00

As of July 1, 2000, the real estate licensing examination fee will increase from \$110 to \$111 for each examination administered. Notices have been inserted in all application packets for some time now alerting applicants to this change. This change affects the examination fee only, other fees, i.e. application and licensing fees, remain the same.

The investment of this additional dollar per examination helps to ensure that the licensing examinations administered to Nebraska license candidates adhere to a reliable set of standards as evidenced by the ARELLO Examination Certification. These standards help to verify that, among other things, the examinations measure knowledge germane to the industry, the examinations are consistent in scope of knowledge tested and difficulty level, and statistics on each examination item are gathered and reviewed regularly.



Mercury Alert

(Editor's note: The Commission received this notice and a request from the Environmental Protection Agency to share the alert with our readers. This alert has been issued because of an elevated number of incidences involving mercury in this region.)

Introduction

Over the past several years, an increasing number of residential mercury spills have been reported to the U.S. Environmental Protection Agency (EPA) Region 7, which includes the states of Iowa, Kansas, Missouri, and Nebraska. Mercury releases have occurred from mercury pressure gauges used to test gas lines and from some types of home thermostats. Other mercury releases, which required significant cleanup efforts, resulted from plumbers working on antiquated heating systems, such as the Honeywell heat generator. These plumbers, perhaps unfamiliar with the harmful effects of mercury, had been hired to repair an existing system or replace the old system with a newer one. Real estate agents, home inspectors, plumbers, contractors or anyone else who encounters the Honeywell heat generator in a home, should be aware that the unit contains mercury, a hazardous material.

EPA is providing this fact sheet in an attempt to prevent mercury spills from occurring, and to alert you to the potential health risks and liability issues related to a mercury release.

Mercury Cleanups

EPA's response to mercury spills in homes has consisted of evacuating the residents and providing temporary housing, gathering visible mercury with a special vacuum, and heating and ventilating the house to drive off the harmful mercury vapors. In some instances, walls, car-

peting, and floors of houses have had to be removed because they were contaminated. Personal possessions have also been discarded if they became contaminated and the mercury could not be removed. Much of this contaminated material has had to be sent to a special landfill or recycler at a substantial cost to EPA. Often, mercury has been spread from the original spill location into vehicles and other homes via shoes, clothing, and the transfer of personal property and cleaning supplies. In Region 7, the cost of cleaning up contamination resulting from mercury releases from a heating unit or mercury pressure gauge has ranged from \$15,000 to \$300,000, per release.

Honeywell Heat Generator

If a Honeywell heat generator is encountered in a home and it needs to be removed, it should be removed in a manner that ensures no mercury is released from the unit. First, remove the unit from the home intact. Then drain the mercury from the heat generator into a plastic airtight container for proper disposal or recycling in accordance with appropriate state regulations.

Legal Considerations

Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, 42 U.S.C. §9604, also known as the Superfund law, gives EPA the legal authority to respond to mercury releases. The Superfund law also gives EPA the authority to identify the party responsible for the release, order those who improperly handle mercury to take appropriate response actions, and/or compel them to pay for a cleanup.

The Emergency Planning and Community Right-to-Know Act requires that any release of mercury

greater than one pound, which is approximately two tablespoons, must be reported to the National Response Center at 1-800-424-8802.

Human Health Effects of Mercury Exposure

Mercury spills present a serious environmental and health problem. Inhaling mercury vapors, which are colorless and odorless, or ingesting mercury can cause irreversible damage to the brain and kidneys. Mercury can also enter the body through contact with the skin and by eating fish contaminated with mercury. The central nervous system, eyes, and respiratory system can also be affected by mercury. Developing fetuses and children are the most sensitive to mercury exposure. Mercury exposure can be detected in the body through blood and urine tests.

Who to Contact

If you know of a spill that has occurred that was not cleaned up properly, or if you have questions regarding the proper disposal of mercury, please call the number in your area.

	Emergency Spills	Disposal Questions
Iowa	515-281-8694	515-281-8693
Kansas	785-296-1679 (daytime) 785-296-0614 (evenings and weekends)	785-296-1600
Missouri	573-634-2436	800-361-4827
Nebraska	402-669-9181	402-669-9181

For additional information on mercury and mercury releases or in case of an emergency, please contact EPA's emergency spill phone at 913-281-0991.

Where Would You Like Your Mail Sent?

In the past the Real Estate Commission's licensee data-base could only collect two addresses for each licensee. The two addresses absolutely necessary for us to manage licenses are the residence address and the broker's main office address, therefore, these are the only two currently in our data-base.

We now have the capacity to collect a third mailing address and an E-mail address in addition to the addresses mentioned above. You now have the option to submit a third address, and phone number and/or E-mail address for your file. It is expected that many will choose to submit their branch office address for the third address and begin receiving mail there. To submit this optional information, or simply to change where your mail is currently being sent, please fill out the form (or a copy of the form) below and send it in to our office.

Please be advised that information submitted becomes a part of your file and; therefore, becomes public information. Currently, public information is accessible through the Commission Office (although we do not give out residence addresses unless they are indicated as mailing addresses). It is anticipated that some public information will also become accessible over the Internet at a future date.

Additional Data Submission Form

Name: _____ License ID#: _____

Optional Third Address:

Business Name (If applicable): _____

Street Address: _____

City/State/County: _____

Phone w/area code: (____) _____

Please identify this address (branch, 2nd home, etc.): _____

Where would you like to be contacted?

Broker's office

Residence address

Third address

Optional Licensee E-mail address: _____

Licensee's Signature: _____

Please Return Form to:

**Nebraska Real Estate Commission
P.O. Box 94667
Lincoln, NE 68509**

(This form may be duplicated)

OPEN MOUTH-INSERT FOOT (What is it about equal you don't understand?)

By: Brenda K. Russell, M.Ed., CRS, GRI, ITI

(Editor's Note: This article was printed with permission in the Spring 1999 "Commission Comment". We are happy to respond to multiple requests to reprint this article and feel that this information is serving Nebraska licensees very well as they attempt to effectively address these situations when they arise.)

Ms. Russell earned her Bachelor's and Master's degrees in education before entering the real estate industry in 1979. During her real estate career her unique teaching style earned her the title "Tennessee Realtor-Educator of the Year". Brenda is a Vice President/Broker at Crye-Leike Realtors, Inc., the largest real estate firm in Tennessee. She is also the Director of the Success Real Estate School in Memphis. This article was reprinted with Ms. Russell's continued permission.)

You're penalized ten yards in football when the referee calls a clipping penalty against you for an illegal physical contact. In the real life game of real estate, an illegal verbal clipping call can cost you the entire game...and your career. The referees making the tough calls in real estate today aren't playing games...but they're playing for keeps. Remember--an illegal verbal clipping call can put you on the bench, kick you out of the game or end your career. It's your call: know the rules and stay in the game.

Although agents are inundated with paper, most communication with clients and customers is still verbal. We need to be careful that when we "open mouth" we don't "insert foot." The information delivered must be prepared, professional,

and within the confines of the Federal Fair Housing Law. Sometimes it's not "what we say" but "how we say it" that can be a problem. We need to develop an internal stash of messages that are appropriate for the common problem areas we encounter. When a situation presents itself, the agent can turn on his or her "internal tape player" of acceptable responses.

Increasing Cultural Diversity

According to the Harvard University Joint Center for Housing Studies, the minority population is projected to increase by a total of 16.5 million during the 1990's. Furthermore, minorities are expected to account for more than three-quarters of total population growth between 2000 and 2010. Increased minority population will mean more minority buyers, sellers and renters. Agents must be adept at working with diverse population groups in order to stay in the mainstream of the real estate market. They also must be prepared to deal with customer/client questions of a sensitive nature concerning existing property owners and the make-up of residential neighborhoods.

Answering the Tough Questions

The following examples are situations which agents are likely to encounter in their daily work. I have suggested dialogues and answers that I have used successfully in my own real estate business. Preparing and practicing in advance of these situations can make a positive difference in the agent's skill at handling sensitive topics.

Selecting the First Neighborhood to Show

Customers/clients moving in from

out of town often ask, "Where are you taking us first today? How did you decide where to start?" Rather than beginning with, "I've selected a nice area that fits your parameters to show you first." What if this "nice area" happens to be predominantly occupied by one particular race? The use of the word "nice" could be construed to mean the area selected is "nice" because of the racial composition. Instead, base your comments on objective data. "You told me you wanted to be no more than 30 minutes to your work. This first area is about 25 minutes from your office. The other areas are a little closer." OR: "You mentioned you wanted to be close to shopping. The first area is the closest in your price range that is very near shopping. The others are a bit further away."

Handling the "Safety" Issue

When the customer/client says, "Please show me homes in a safe area," agents need to ask questions back. "What do you mean by 'safe' area?" Once I had a client who repeatedly asked to be shown homes on a safe street. As my tension mounted as to how to handle the touchy issue, she finally commented, "Oh, great. Finally a safe street." We were on a dead end street or cul-de-sac. To her "safe" meant no traffic. If the issue is crime, be sure to refer those questions to the proper source. "Are there crime problems in this area?" A good response might be as follows: "I don't know of any (if you in fact don't), but if you are interested in crime statistics, I'll be happy to give you the number of the police department. They can furnish you with that information."

Racial Composition Questions

Questions about ethnic make-up or national origin can be difficult whether they are positive or negative in tone. Once a client of mine said in a very upbeat, enthusiastic manner, "You know, I like all kinds of people. What is the racial composition of this neighborhood?" On any questions along these lines, an agent is best advised "Don't go there." A good answer: "Federal law prohibits our discussing race or national origin. If you want specific population data, it is available from local census information." OR: "You know, anyone can live wherever he or she can afford to live. We are not allowed to discuss racial issues under the federal fair housing law." One agent in our office had a particularly difficult situation in this regard. There were only four houses in the subdivision, and she lived in one of them. Of course, she knew the answer to the question! Still she prudently chose option one answer above.

Conducting a Kid Search

"Will my kids have other kids to play with?" This could be simply another way of saying, "Are there other children in the area?" However, the customer/client could be implying, "Will my (minority) kids be accepted in this area?" Try to involve the individuals in answering these types of questions. When showing property to clients with children, we often conduct a "big wheel count." We keep track of the number of big wheels we see in the yards. Sometimes information can be obtained from the listing agent who may know specific gender and ages of neighboring children. Also encourage agents to make this suggestion to the family. "I don't know who lives in these particular houses, but you may want to come back to the area just after school is out or on a Saturday morning to see how many kids are out playing." The buyers can do some of their own due diligence. It is dangerous for an agent to make any comment about community acceptance. On the flip side of this issue are the people who do not

want to live around children for whatever reason. Families are a protected class under the law, so we should use caution when dealing with buyers who want an adult only environment. These buyers can also visit neighborhoods in afternoons and on weekends to draw their own conclusions about the age range of the occupants.

Appreciation of the Neighborhood

A concern of all buyers is the soundness of the monetary investment they are making by buying a home. This leads to difficult questions about whether the buyer can expect to experience appreciation in the selected area. It also can bring up issues such as "declining" or "changing" neighborhoods. If the customer/client is represented by a buyer's agent, he or she is entitled to solid factual information provided by the agent regarding sales and listings in the area. Restricting comments to the printed data is the best approach. "In the past two years house prices in this area have risen approximately 10% according to this sales data." Above all, resist the temptation to predict the future. Although agents would welcome a crystal ball, one does not exist! Statements such as, "You're sure to make money in this area," or "This area is sure to appreciate" should be avoided. You could be held liable if such predictions don't come true.

Inquiries Concerning Religious Affiliations

What if you are asked, "Can you show me homes in a good Jewish neighborhood?" (Substitute any denomination for Jewish in the sentence.) Ask questions



to get more information. "Do you want to live close to a synagogue (or church or temple)?" If the buyers do want proximity to a particular place of worship, you can look for neighborhoods that are a certain distance from it. "Which places of worship are you considering? Would you like to be in walking distance or a short drive away? Tell me your distance requirements, and I'll try to find homes within your parameters that meet them." Make certain that the buyers do their own research on the religious facilities available. Supply a Yellow Pages or perhaps the name of a resource person. One of my agents/friends has a list of people in the community her buyers can contact about various religious facilities and activities in the city and surrounding areas.

Inquiries About AIDS

The new fair housing questions of the '90's is this one: "Does the seller of this house have AIDS?" Although this is not the typical question about race or religion or ethnicity that we expect, it will probably be asked with increasing frequency in the next few years as buyers conscientiously question every possible aspect of their home purchase. The most poised and professional agent can be thrown by this inquiry. Prepare your answer and practice in advance. We are usually more comfortable talking about national origin issues than about Acquired Immune Deficiency Syndrome. However, the responses should be similar. AIDS is considered a handicap in the fair housing law under the 1988 amendments; therefore, it is a protected class just as is national origin. None of the protected classes should be discussed as a criterion to select or reject a particular property. Suggested responses; "AIDS is classified as a handicap

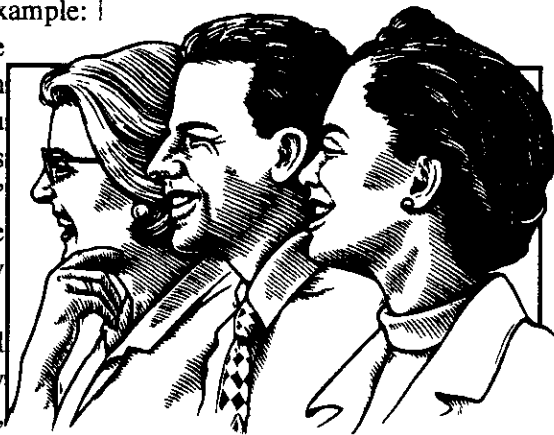
under the federal fair housing law. Agents are not allowed to discuss this issue." OR: "Federal fair housing laws prohibit agents from discussing this issue. AIDS is a protected class just as is race or national origin." Being a helpful agent does not mean that one has to answer every question the client raises.

Making the Final Home Selection

Often persons relocating from out of town to the area can pose particularly challenging queries. Many times I have had the customer/client turn to me and say, "O.K., Brenda. We're down to two home choices. You live here; which one should we buy?" Never put yourself into the position of "choosing" the home for the buyer, no matter what the circumstances. If the agent picks the house, then the agent could be blamed later for whatever the buyers decide they don't like about the new neighborhood. You could be charged with "steering" either away from or to a particular area for racial or national origin reason. When faced with this situation, I put on a big smile and say, "You know what, John? It's not up to me. It'll be your house, not mine. Let's take a sheet of paper and list the pros and cons of your final two selections." Then hand the buyer the pen and paper. The agent can assist in recalling the objective features that were either positive or negative, but the buyers make their own list. For example: "you really seemed to like the room sizes in the house on Sycamore Street, but you commented that the lot was smaller than you wanted." After the buyers have made their list, the decision usually becomes simplified.

The Super Bowl of real estate is played out every day on the phone, at your office,

in your car, at an open house or at a house for sale. Any time you're "on the field" going toe-to-toe with buyers or sellers the clock is running. And the referees are watching, itching to blow their whistles, throw down their flags and make a penalty call against you. No matter how long you've been in the business, you can never, ever let your guard down. You're never out of the game; there are not time outs. You must expect the unexpected and prepare for it by practicing your verbal game plans--scripts of what to say when--over and over and over again--until you don't have to think about what your lips are going to say. In sports it's called muscle memory: the training of the body to instinctively respond in a pre-determined way to a given situation automatically, without hesitation, without thinking. This reflex action in real estate I call "mouth memory." "The training of the brain to protect you by prelearning what to say to avoid a catastrophic, career-crippling "slip of the tongue."



NEW OPTIONS IN SUBMITTING CONTINUING EDUCATION

Our recent conversion to a new database has opened up some new options with regard to submitting continuing education certificates to our office. While each individual licensee remains responsible for submitting these documents, he/she may now submit the certificates as they are earned rather than waiting until he/she has completed the full 12-hour requirement and submitting all certificates together.

The continuing education requirement remains the same i.e. inactive licensees may waive the continuing education requirement as long as they remain inactive and active licensees must complete 12 clock-hours every two years, at least 3 hours of which must be in designated subject matter (R-course). The change is that now we can keep track of your certificates individually and you may submit them individually if you so choose. You may also continue to wait until you have your full twelve hours completed before submitting your continuing education as has previously been required.

Please remember: for all active licensees, your license renewal is contingent upon completing your continuing education requirement every two years. The latest that continuing education documentation may be submitted is with the renewal form the year your continuing education is due. If renewals for active licenses are submitted without the required continuing education having been documented the renewal will be returned to you, unprocessed.

Our new mailing labels, as appear on this newsletter, can help active licensees keep track of how many continuing education hours

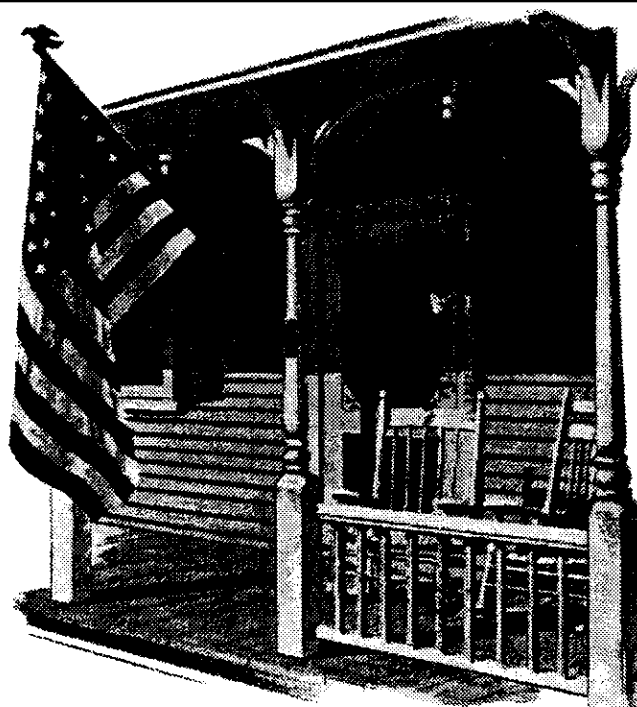
they have submitted in their current continuing education period. The label indicates a numerical code on the right-hand side. The licensee's continuing education period is identified on the label. The following 00/01, indicates a 2000-2001 continuing education period in which November 30, 2001 would be the last day to submit continuing education without incurring a late renewal fee. The numbers, 99/00, indicate the continuing education period for those with continuing education due at the end of November this year.

Additionally, the number of hours of continuing education submitted in the current period is also indicated by a second set of numbers. In this set of numbers, the number behind the slash mark indicates the total number of hours required, if this is followed with an asterisk (*) then the required 3-hours of designated subject matter (the R course) has **NOT** been submitted. Therefore, the following notation would indicate that the current continuing education requirement has been completed: 12/12. *Non-resident Nebraska licensees who, through a*

reciprocal agreement with their residence state verify their continuing education with their resident state only, will see the notation: 'Recp' rather than any specific number of hours.

Because inactive licensees have the option to waive continuing education and incur continuing education deficiencies there will be no notation on their mailing labels. It is recommended that for specific information regarding an inactive licensee's continuing education requirement, the Commission Office be contacted and we will be happy to assist you.

Remember, all licensees will need to continue to keep records of their course attendance so that they do not duplicate non-R subject matter within 4 years, licensees will continue to need to submit continuing education to our offices themselves. However, we do hope that this new flexibility in our record keeping will prove beneficial to you. If you have any questions, please feel free to contact Julie in our office.



License Transfer Process

It seems that almost everyone with a real estate license decides to transfer that license at one time or another. This article is being reprinted, not because the process has undergone change but it is helpful from time to time to refresh licensees' information regarding the process to transfer a license.

Materials Required to Process a Transfer

1. Release from current broker. This is evidenced by either:
A) a copy of a letter from the licensee to the current employing broker requesting release as of an effective date and that the licensee's wall license

be forwarded to the Commission; OR B) the wall license of the licensee, itself (if the wall certificate cannot be found, then a lost wall certificate form must be completed and sent). Please remember that associate brokers and salespersons may not handle wall certificates.

2. Transfer fee of \$25.00.
3. Pocket card of licensee transferring (if the pocket card cannot be found then a lost pocket card form must be completed).
4. Letter from the new broker agreeing to employ licensee on an effective date.
5. Letter from licensee requesting transfer to the new broker on an effective date.

****4 and 5 can be addressed through the use of the "Notice and Application to Transfer License" form signed by both the new broker and the licensee. See the note at the end of this article.

6. Appropriate verification/certification of Errors and Omissions Insurance coverage if the licensee has other than Individual Errors and Omissions Insurance coverage.

When is the Transfer Effective?

Effective dates need to correspond. If a break is indicated, the license will be transferred to Inactive Status for the interim period. An example of this is when the Commission office receives the material described in #1 and has not yet received the rest of the material described in #s 2--6.

When **all** materials required to transfer are mailed under one cover, requesting an immediate transfer, the transfer is effective as of the postmark. In those instances where there is no postmark, the date of the lat-

ter letter (either that of licensee requesting license be returned to the Real Estate Commission or that of the new broker wishing to hire the licensee) or the date indicated on the "Notice to Transfer..." form will become the effective date of transfer. If materials are hand-carried into the office, the transfer, if an immediate transfer request, is effective as of Commission date stamp.

In the event that transfer materials are incomplete, the transfer will not be effective until all materials are received and date stamped in the Commission Office.

Note: The "Notice and Application to Transfer License" form can be of significant assistance in addressing and organizing the information set out in 1 through 6 above. A copy of the "Notice and Application to Transfer License" form is printed on page 13 for your convenience. This form may be copied from this newsletter, or downloaded from our website at www.nol.org/home/NREC, and used for future transfers.



NEBRASKA REAL ESTATE COMMISSION
P.O. BOX 94667
LINCOLN, NEBRASKA 68509
NOTICE AND APPLICATION TO TRANSFER LICENSE

A. SALESPERSON - ASSOCIATE BROKER

I hereby request that my real estate salesperson's or associate broker's license be transferred from the office of _____ to the office of _____ located at _____, such transfer to become effective on _____.

My present residence address is _____.

I have given written notice to my prior broker that I am transferring from him or her and a copy of said notice is attached hereto. (NOTICE! Failure to notify prior broker constitutes a false application to transfer which could result in disciplinary action against the transferee.)

Errors and Omissions Insurance: (Please check the applicable blank below)

_____ My Errors and Omissions Insurance Coverage is under the Commission-Offered Errors and Omissions Insurance Plan.

_____ On _____ I made application for enrollment in the Commission-Offered Errors and Omissions Insurance Plan.

_____ I have attached the "Certificate of Equivalent Coverage" for independent Errors and Omissions Insurance Coverage.

(Signature of Salesperson or Associate Broker Employee) (Phone Number)

NEW EMPLOYING BROKER - AGREEMENT TO EMPLOY

B.
I hereby agree to employ _____, real estate salesperson or associate broker, such employment to begin and become effective _____.

Chapter 2-001 of the Rules and Regulations of the Nebraska Real Estate Commission provides as follows:

"It shall be presumed that a duly licensed broker whose principal business is other than that of a real estate broker is unable to supervise licensed employees and said broker shall not be allowed to employ a real estate salesperson or associate broker until such presumption is overcome by satisfactory evidence to the contrary."

I hereby certify that I have read and understand the above rule and that:

_____ My principal business is that of a real estate broker.

_____ My principal business is not that of a real estate broker, but I have obtained authorization from the Real Estate Commission to employ real estate salesperson or associate brokers.

(Signature of Employing Broker or Associate Broker authorized to sign for the firm) (Phone Number)

(Name of Firm)

(Address of Firm or Employing Broker)

THE FILING OF THIS TRANSFER FORM IS PURSUANT TO SECTION 81-885.20(2) OF THE NEBRASKA REAL ESTATE LICENSE ACT.

OFFICE USE ONLY

Transfer Date _____

Transfer No. _____

Registration Form
RISK MANAGEMENT SEMINAR
September 25-29, 2000

Please check the space in front of the date and location you plan to attend:

September 25--Scottsbluff
 September 26--North Platte
 September 27--Kearney
 September 27--Grand Island

September 28--Norfolk
 September 28--Columbus
 September 29--Lincoln
 September 29--Omaha

Name: _____

Return by September 4, 2000 to:

Address: _____

Nebraska Real Estate Commission
P.O. Box 94667
Lincoln, NE 68509

(This form may be duplicated)

Nebraska Real Estate Commission
PO Box 94667
Lincoln, NE 68509-4667

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