

COMMISSION COMMENT

Spring

2001

Governor Appoints John Gale As Secretary of State

On December, 18, 2000, John Gale was sworn in as Nebraska's Secretary of State. John Gale was appointed to this position by Governor Mike Johanns replacing Scott Moore. As Secretary of State, John will also serve as the Chairperson of the Nebraska Real Estate Commission.

John Gale was born in Omaha in 1940. John is a 5th generation Nebraskan with deep roots in the area north of Florence, Nebraska since the late 1850's. Graduating from Omaha North High School in 1958, John then attended Carleton College in Northfield, Minnesota, and received his BA degree in 1962, with a major in Government and International Relations. Following graduation, John attended the University of Chicago Law School, receiving his Doctor of Law degree in 1965. John returned to Omaha after graduation.

In 1968, U.S. Senator Roman Hruska offered John a job in Washington D.C. as a legislative assistant. Returning to Nebraska, John served as an Assistant U.S. Attorney in Omaha in 1970 and in Lincoln in 1971. John and his family moved to North Platte in 1971 where he remained in the private practice of law. In 1986, John was elected as State Chairman of the Nebraska State Republican Party.

John is married to Carol Gale, who grew up in Kearney County and graduated from Kearney State College. Their family includes son David, wife Kristine and grandson

Jack of Denver, daughter Elaine of Los Angeles, and son Steven, a recent graduate of the University of Nebraska-Lincoln.



Commissioner Fred A. Fletcher, Jr. awards Commission pin to Chairperson Gale



*Commission Members; front row, left to right: Joan M. Nigro, Chairperson John Gale, Janice Wiebusch
back row, left to right: Paul Landow, Fred A. Fletcher, Jr., Robert Moline, Harold Johnson*

Commission Meeting Schedule

March 27-28	Lincoln
April 24-25	TBA
May 22-23	Lincoln

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COMMISSION COMMENT

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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.

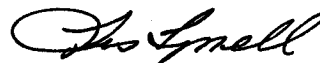
FROM THE DIRECTOR'S DESK

**Commissioners and Staff Welcome
New Secretary of State Gale**

On behalf of the Real Estate Commission and Staff, I would like to extend a welcome to our new Secretary of State and Chairperson of the Real Estate Commission, Mr. John Gale. Secretary Gale was sworn in December 18, 2000. We look forward to benefitting from his guidance and leadership as we continue to serve the citizens of Nebraska. Please take the time to read about John's background and his accomplishments in the featured article on page 1.

Transfer Fee Reduced

At its December Meeting the Commission reduced the Transfer Fee to \$15.00 per transfer effective January 15, 2001. Should you have transfer forms with the wrong fee, please discard them. Current forms are available through the Commission Office or may be downloaded from our website, www.nol.org/home/NREC. Remember that the website address is case-sensitive and must appear in lowercase and uppercase letters as indicated.



Les Tyrrell,
Director Nebraska Real Estate Commission

**Commission Bids Farewell and
Best Wishes to Bob Arterburn**

After serving the Commission and the real estate industry diligently for thirty-three years, Bob Arterburn has decided to retire. His last day with the Commission will be March 30, 2001. Bob began his career as a Trust Account Examiner with the Nebraska Real Estate Commission on February 19, 1968.

The citizens and real estate brokers of Nebraska have benefitted greatly over the years from Bob's willingness to teach various bookkeeping methods and records systems to those entrusted with managing the funds of others. Bob has epitomized the Commission's philosophy of educating when we can, disciplining when we must.

Bob is an avid baseball fan and it is our hope that he will now have time to watch those games and cheer for his favorites!!

If you would like to send your best wishes to Bob, please send them to the following address:

NE Real Estate Commission
ATT: Bob Arterburn
P.O. Box 94667
Lincoln, NE 68509

We know that it would mean a lot to Bob to hear from you.

MEET THE REAL ESTATE COMMISSION STAFF

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	<i>Heidi Burkland</i> InfoTech@nrec.state.ne.us
Complaint Procedures	<i>Terry Mayrose</i> DDEnf@nrec.state.ne.us
Continuing Education History or Inquiries	<i>Julie Schuur</i> EdEnf@nrec.state.ne.us
Curriculum Design (Education & Instructor Approval)	<i>Teresa Hoffman</i> DeputyD@nrec.state.ne.us
Errors and Omissions Insurance Inquiries	<i>Teresa Hoffman</i> DeputyD@nrec.state.ne.us
License Applications Packet Requests	<i>Vera David-Beach</i>
License Applications Process	<i>Nancy Glaesemann</i> Applic@nrec.state.ne.us
Licensing and Education Requirements	<i>Teresa Hoffman</i> DeputyD@nrec.state.ne.us
New Licenses in Process	<i>Nancy Glaesemann</i> Applic@nrec.state.ne.us
Specialized Registrations	<i>Monica Wade</i> Finance@nrec.state.ne.us
Transfer of License	<i>Amy Goodman</i> LicTsf@nrec.state.ne.us
Trust Account Matters	<i>Terry Mayrose</i> DDEnf@nrec.state.ne.us <i>John Clark</i> <i>Bob Arterburn</i> <i>Ron Pierson</i>
Webmaster	<i>Monica Wade</i> Finance@nrec.state.ne.us

WEBSITE: www.nol.org/home/NREC

TELEPHONE NUMBER
(402) 471-2004

ADDRESS:
Nebraska Real Estate Commission
P.O. Box 94667
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Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

2000-023 Commission vs. Steven W. Stueck, salesperson. License suspended for thirty (30) days from December 4, 2000, through January 2, 2001, with entire period stayed and served on probation; plus an additional three (3) hours of continuing education in the area of agency to be completed by June 3, 2001. [Violated Neb.Rev.Stat. § 76-2421 in that Respondent failed, at the earliest practicable opportunity during or following the first substantial contact with the Buyers who had not entered into a written agreement for brokerage services with the designated broker, to provide the Buyers with a written copy of the current Brokerage Disclosure Pamphlet which has been prepared and approved by the Commission, by failing to disclose in writing the types of brokerage relationships the designated broker and Respondent are offering to the Buyers and by failing to disclose in writing to the Buyers who Respondent is representing; § 81-885.24(29) by demonstrating negligence to act as a salesperson.] December 4, 2000

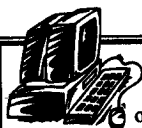
2000-024 Commission vs. Louis P. Beau, salesperson. License suspended for thirty (30) days from December 4, 2000, through January 2, 2001, with entire period stayed and served on probation; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of disclosure, to be completed by June 3, 2001. [Violated Neb.Rev.Stat. § 76-2421 by failing, at the earliest practicable opportunity during or following the first substantial contact with the Buyers who had

not entered into a written agreement for brokerage services with a designated broker, to provide the Buyers with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the Commission, by failing to disclose in writing the types of brokerage relationships the designated broker and Respondent are offering to the Buyers and by failing to disclose in writing to the Buyers who Respondent is representing; § 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 Real Estate License Act, specifically, Respondent is found to have violated Title 299, N.A.C. Chapter 5-003.24 by failing, as an agent of the Buyers, to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the Buyers on or before the effective date of any contract entered into which binds the Buyers to purchase residential real property and to obtain the signed receipt of the Buyers; 81-885.24(29) by demonstrating negligence to act as a salesperson.]

December 4, 2000

2000-020 Marilyn & Jeff Pankoke vs. Jerome Henry Haase, salesperson, & Larry Eugene Owen, broker. Owen: Dismissed. Haase: Stipulation and Consent Order. License censured; 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 contracts, to be completed by June 12, 2001. [Violated

(Continued on page 4)



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.

(Continued from page 3)

Neb.Rev.Stat. § 76-2417(1), a licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (b) to exercise reasonable skill and care for the client.]

December 13, 2000

2000-046 Commission vs. Robert Joseph Quartoroli, salesperson. Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education, including three (3) hours in the area of ethics and three (3) hours in the area of disclosure, to be completed by July 22, 2001. [Violated

Neb.Rev.Stat. § 81-885.24(2) by intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents the property and § 81-885.24(29) by demonstrating negligence to act as a salesperson.]

January 23, 2001

2001 Legislation Update

The Commission-developed legislation was introduced into the Legislature. Following is an "update" on the progress that has taken place with legislation, as of the date of writing this article.

LB 68 – Time-Share Act Amendments

This legislation was introduced by Senator Jon Bruning of Sarpy County. The Hearing was held before the Banking, Commerce and Insurance Committee and was reported to the floor of the legislature. LB 68 was passed by the Legislature and signed by the Governor. We wish to thank Senator Bruning and his staff for their assistance in the passage of this legislation.

LB 68 amends various sections of the Time-Share Act to clarify ambiguous or unclear provisions of the current act and corrects inconsistencies regarding developer filings. The bill also strengthens consumer protection provisions.

LB 211 – Seller Property Condition Disclosure Statute Amendments

This legislation was introduced by Senator Adrian Smith of Gering. The Hearing has been held before the Banking, Commerce and Insurance Committee.

LB 211 proposes that, on or before the effective date of any contract which binds the purchaser to purchase the property, the seller shall update the disclosure statement whenever the seller has knowledge that the information on the disclosure statement is no longer accurate. The

bill also proposes to include language that any update also be delivered to the purchaser or his/her agent in the same manner under the act as the disclosure statement itself.

The bill also proposes adding two additional exemptions to the statute:

1. Newly constructed residential real property which has never been occupied; and
2. Any transfer from a third-party relocation company, as long as the relocation company has provided a disclosure statement from the most immediate seller (unless that seller meets one of the other exceptions). If the relocation company does not supply a necessary disclosure statement from the most immediate seller, then the relocation company shall be liable under the act.

The provisions of LB 211 have been amended into the following bill, LB 215.

LB 215 – License Act and Agency Relationships Statute Amendments

This legislation was also introduced by Senator Adrian Smith of Gering. The Hearing has been held before the Banking, Commerce and Insurance Committee and is on General File.

LB 215 proposes to clarify language in the Agency Relationships statute and the Nebraska Real Estate License Act.

In the Agency Relationships statute portion of LB 215:

1. The definition of adverse mate-

rial fact is amended to coincide with language currently in Rule and Regulation, but does not change the meaning;

2. Sections are amended to specifically set out the parties rather than use the word "customer;"
3. Language is inserted to clarify disclosure of adverse material facts to both parties in dual agency;
4. Language is added to clarify that a licensee does not need to make certain disclosures to a buyer/tenant who is represented by another licensee without a written agreement;
5. Language is added which would relieve a licensee from being required to make certain written agency disclosures to a business entity in a commercial or industrial property transaction;
6. Language is added to require delivery of written agency agreements to clients, and that said written agency agreements contain a fixed date of expiration; and
7. Language regarding dual agency relationships is modified to require initial consent to such relationships, and reconfirmation of the dual agency relationship prior to or at the time a contract is entered into.

In the Nebraska Real Estate License Act portion of LB 215:

1. At various places, "any form of

(Continued on page 5)

(Continued from page 4)

compensation or” is inserted for the words “commission or any other valuable;”

2. The definition of “designated broker” is changed to include “sole proprietorship,” clarify language, and include a responsibility for supervision;
3. Language is added to be inclusive as to how inactive status occurs;
4. Distance education is defined and replaces “correspondence courses” as applicable;
5. Regulatory jurisdiction is defined and replaces “state(s)” as applicable;
6. Verb tense of certain language regarding applications is corrected;

7. Obsolete language regarding “courses of study” is deleted;
8. Initial refusal of application changes from an act of the Commission to an act of the Director;
9. Requirement that branch manager can only manage one branch office is deleted;
10. References to discriminatory actions are updated;
11. Obsolete unfair trade practice is deleted and conforming language reference is inserted;
12. Provision allowing certain foreign residents to receive “referral fees” is inserted;
13. Language regarding registration of certain subdivided land projects is clarified; and
14. Obsolete language regarding

continuing education is deleted, and language is inserted which gives the commission discretion with regard to the manner in which completed continuing education is submitted by licensees.

By the time you read this article the status of the bills may have changed. You can access the current status of these bills by visiting our website at www.nol.org/home/NREC (this address is case-sensitive, please use upper and lowercase as indicated) and click on “Proposed 2001 Legislation” and it will take you to the Legislature’s website where the bills are housed or you can go website at www.unicam.state.ne.us/documents/bills.htm.

PREVENTING NEW SOFTWARE FROM CAUSING LICENSE LAW DIFFICULTIES

(Editor’s note: This article was reprinted with permission from the Kentucky Real Estate Commission. We believe the advice of Kentucky’s General Counsel, Jeff Blair, is sound for Nebraska licensees as well.)

Bill Gates has stated that the Internet is a “tidal wave” which will revolutionize modern communication and industry. Other experts state that the Internet is a “revolution not an evolution”. It has been predicted that 40 million households will have Internet access by 2002. Many real estate professionals believe the Internet is revolutionizing the real estate industry. However, regardless of this technology, real estate professionals must still be aware of certain issues such as fiduciary duties to clients and proper supervision of sales associates. This article will briefly address some of those issues and list preventive steps to avoid license law difficulty.

The wide utilization of personal computers and the Internet have brought great advances to the real

estate industry. Greater efficiency is occurring throughout real estate transactions due to the “computer age”. The “computer age” has also sparked an explosion in software designed to help you sell real estate better. I recently attended a real estate conference where numerous software programs were demonstrated. One program was designed to provide consumers and buyers’ agents detailed information about listed property. One question asked by the software program was: “Are there any other pending offers and how much are these offers for?” Once the licensee answered this question, this information was to be provided to consumers and licensees representing consumers via the Internet.

In an attempt to better market real estate, the computer program “set up” the listing agent. If the listing agent provided the answer to the question, the listing agent would likely violate fiduciary duties to the seller. Further, the licensee may vio-

late ethical codes if he or she is a member of an industry trade group.

The message here is to have your company attorney review software prior to purchase. The attorney may locate legal issues which should be considered. Certainly no one wants to spend money on a software program and later find out it “sets up” the company associates to violate the law. Issues involving a principal broker’s duty to adequately supervise associates are also relevant when new software is purchased.

This article is not intended to deter use of new computer software. Rather, it is intended to help your company avoid the unnecessary expense (and possibly a license law complaint) that could arise if software is purchased without a full review of its applications.

By taking the simple precaution of a legal review prior to software purchase, you can prevent the “tidal wave” from getting your real estate license “all wet”.

NEW WEBSITE NEWS:

Please come and visit our website at www.nol.org/home/NREC. (This address is case sensitive upper and lower case must be used as indicated.) Anything that is available in our office is also available to you on the website 24 hours a day, 7 days a week. You can acquaint yourself with the site by viewing the "Site Map" found on the left menu bar. We want to alert you to some new features of our site. We hope that this information will serve you well.

Licensee Information Search

We would like to point out the newest addition to the site the **Licensee Information Search**. This is where public information regarding your real estate license or someone else's can be found. Individual licensee data may be referenced by searching for licensee name, business name, business phone number, broker's affiliated licensees, city, county, state, and zip code.

Information about each licensee includes: license status as active or inactive; license expiration date; date of license issuance; report of any disciplinary action; status of Errors and Omissions Insurance coverage; and continuing education history. The Errors and Omissions Insurance and Continuing Education History information is password protected.

Password protected information is only available by entering unique and individual information and cannot be accessed by anyone without this specific information. The orange password sheets that were stapled to 2001 pocket cards or enclosed in the inactive renewal confirmation letters contain this individual information. If you did not receive the orange password sheet or have misplaced it please contact Monica in our office. Please do not have anyone else seek this information for you, we will

only release it to the licensee in question. Please Note: when entering your password information, if your orange sheet refers to an id# in the bottom left-hand corner substitute this number where it asks for "user name" on the screen. Password sheets printed since the 2001 renewal have corrected this by referring to this number as the user name.

Should you have to return your pocket card to the Real Estate Commission for any reason, please detach from your pocket card and retain the orange password sheets, new password sheets need not be issued. These passwords are necessary to access personal data now and will be pertinent in accessing additional data in the future.

Legislation Link

Also featured on the site is a link to Proposed 2001 Legislation. You can find the link on the left menu bar. Here you can view bills specific to your Real Estate License as well as all other legislation introduced this session.

Coming Soon

We are currently working on developing the capacity to extend and accept electronic submission of various forms for various procedures. Stay in touch for further developments on this front!

Don't Miss It

Please bookmark our site or add it to your favorites so

that you can benefit from the wide selection of material posted. In addition to the new additions listed above are all of the materials in your License Manual, Commission Meeting minutes, agendas, etc., recent issues of the Commission Comment, application materials, license transfer materials, examination information, approved continuing education lists, education provider application packets, complaint materials, brokerage relationships documents, and more.



DIGEST OF REAL ESTATE LAWS AND ISSUES

A complete set of real estate license laws from North America would require an encyclopedia set full of volumes. The *Digest of Real Estate Laws and Issues* comprises shorthand grids of regulations from provinces, states and territories across the continent useful in doing business across boundaries. Also included are summaries of significant real estate rulings and reports on industry issues.

DIRECTORY OF REAL ESTATE REGULATORS

Whether it's a commission, council or board, the official directory of real estate regulators provides a complete list of real estate law officials and regulatory bodies. Names, addresses and phone numbers are included for organizations all over the world, as well as for all the individuals who play an important role--both regulatory members and staff members. Order this useful guide for your desk today.

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BOUNDARIES NEWSLETTER

ARELLO Real Estate Review

Real estate law changes almost everyday somewhere. Whether the newest changes take effect in the next state/province or on another continent, it is never long before the same issues hit home.

Boundaries tracks both specific regulatory developments and overall trends that affect your place in real estate. With a subscription to this timely publication, you will be equipped to adapt to the newest boundaries in this fast-changing industry.

Produced by those who made the news, *Boundaries* is the only publication of its kind. The Association of Real Estate License Law Officials (ARELLO) is your direct link to what's coming down the road, in real estate rulemaking. If you can't afford to wait for the news about what the courts decided, tap into *Boundaries* to find out just what the regulators are thinking before it hits the rulebooks.

As a subscriber to *Boundaries*, you'll receive six issues each year loaded with quick updates on what changes are coming and where to look next. You'll also read up on ARELLO's hot agenda items that will likely move quickly from the international regulatory agenda to your own area.

Boundaries is a unique publication available only by subscription. Order yours today.

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Boundaries will include 6 issues that keep you informed to the changing regulatory trends in the real estate industry—all for \$75.00.

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ARELLO
Post Office Box 230159
Montgomery, Alabama 36123

Service Satisfaction Survey

The Commission is interested in receiving feedback from the real estate licensee population and others who have contact with the Commission Office.

You may have had a question, had a license issued or transferred, had continuing education courses approved, or had some other reason for contacting the Commission Office by telephone, regular mail, e-mail, or in person. Or you may have utilized our website. We are interested in your opinion with regard to that interaction. Through this process, strengths can be recognized and areas needing improvement can be identified and improved upon.

This survey process is in no way intended to replace or diminish personal contact with the Office or the Commissioners. Rather, it is to solicit more feedback on a periodic basis. As always, if you have any questions about this process or matters in general concerning the Commission, please feel free to contact us.

When you have completed the survey, please tear it out, fold it along the lines as indicated on page 10 making certain the pre-printed address of the Real Estate Commission is visible. Please seal with tape, add postage and mail. Thank you for your participation.

Person Completing Survey: (optional) _____

Did you utilize: our website? _____ our Staff? _____

Staff Member Who Assisted You (if applicable): _____

1. What was the reason for your interaction? Please check all that apply.

- | | |
|--|--|
| <input type="checkbox"/> Application/New License | <input type="checkbox"/> Complaint |
| <input type="checkbox"/> Transfer | <input type="checkbox"/> Laws, Rules, and Regulations |
| <input type="checkbox"/> Continuing Education | <input type="checkbox"/> Request Packet (application, complaint, etc.) |
| <input type="checkbox"/> Renewal | <input type="checkbox"/> General Information |
| <input type="checkbox"/> Trust Account | <input type="checkbox"/> Other (please specify) _____ |

2. How was your contact made?

- | | | |
|------------------------------------|---------------------------------------|----------------------------------|
| <input type="checkbox"/> Telephone | <input type="checkbox"/> Regular Mail | <input type="checkbox"/> Website |
| <input type="checkbox"/> In Person | <input type="checkbox"/> E-Mail | |

3. Was your contact handled in a professional and efficient manner?

Yes _____ No _____ Comment:
(Website users may skip to question #5)

4. Were you treated politely, with courtesy and respect?

Yes _____ No _____ Comment:

5. Did you receive accurate, sufficient, and timely information from the Commission Office?

Yes _____ No _____ Comment:

6. Overall, how would you rate your experience(s) and interaction with the Commission office?

Excellent _____ Good _____ Fair _____ Poor _____

7. Do you have any additional comments or suggestions? If so, please use the remaining space or additional pages as needed.

FOLD SECOND

Nebraska Real Estate Commission
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Lincoln, NE 68509-4667

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