



REAL ESTATE

SUMMER

2008

NEWS & VIEWS

“At the Drop of the Auctioneer’s Hammer”

By: Constance Hofland

Legal Counsel to the
North Dakota Real Estate Commission
&

William A. Binek

Legal Counsel to the
North Dakota Public Service Commission

Recently, both the North Dakota Real Estate Commission and the Public Service Commission were asked if an auctioneer who negotiates a sale of real estate *after* the end of the auction sale is required to have a real estate license. The Public Service Commission regulates auctioneers; the North Dakota Real Estate Commission regulates real estate salespersons and brokers.

Currently in North Dakota, auctioneers can sell real estate *at public auction* without a real estate license. This is allowed because section 43-23-07 of the North Dakota Century Code provides certain exceptions to the definition of real estate brokers and salespersons. Specifically, at subsection 3, the statute provides the terms “real estate broker” or “real estate salesperson” do not include **“any person selling real estate as an auctioneer, provided the sale is advertised as a bona fide public auction.”**

Another section of the real estate chapter, section 43-23-05, provides “no person may act as a real estate broker or real estate salesperson, or advertise, or assume to act as such a real estate broker, or real estate salesperson, without a license issued by the Real Estate Commission.” Taken together with the exception for auctioneers (because they are not included in the definition of “real estate broker” or “real estate salesperson”), this means the real estate license law does not require a real estate license for “any person selling real estate as an auctioneer, provided the sale is advertised as a bona fide public auction.”

So the question becomes, how broad is this exception for auctioneers? When is a person “selling real estate as an auctioneer” at a sale advertised as a bona fide public auction so they do not need a real estate license, and when are they not? According to the Public Service Commission, at an auction sale, the contract for sale becomes complete when the bid is accepted. The bid is accepted when the auctioneer drops the hammer, or announces in some other acceptable manner that the property has been sold.

In addition, although the written contract memorializes what took place at the auction, the *auction* is complete for the sale of that real property when the bid is accepted. In other words, it is the Public Service Commission’s position that once the hammer drops in a sale of real property at an auction, the auctioneer is no longer “selling real estate as an auctioneer” at a public auction. The North Dakota Real Estate Commission agrees with the Public Service Commission’s interpretation. Therefore, any subsequent action by an auctioneer, such as contacting the second bidder if the contract formed at the drop of the hammer is not realized, is beyond the scope of “selling real estate as an auctioneer” at a public auction. Because of this, a real estate license is required for any such activity by an auctioneer.

So, in summary, an auctioneer can sell real estate at public auction without a real estate license, but once the hammer drops, the auctioneer is required to have a real estate license to proceed with any further actions in selling real estate.



North Dakota Real Estate Commission

200 E. Main Ave. Suite 204
PO Box 727

Bismarck, ND 58502-0727

Phone: 701-328-9749

Fax: 701-328-9750

Email: ndrealestatecom@nd.gov

Web site: www.realestatend.org

Commissioners

Roger Cymbaluk, Chair
Williston

Kris Sheridan, Vice Chair
Fargo

Jerome Youngberg
Grand Forks

Jerry Schlosser
Bismarck

Diane Louser
Minot

Commission Staff

Pat Jergenson
Executive Director

Linda Hagen
Administrative Assistant

Policy

Neither all nor any portion of the articles published herein shall be reproduced in any other publication unless specific reference is made to their original publication in the ND Real Estate News & Views.

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because we feel they will be of interest to our readers.

Q & A on Advertising Rule

North Dakota Administrative Code §70-02-03-02.1

1. Is there a grace period for compliance?

The commission recognizes getting all existing advertising into compliance will be an ongoing process as new advertising is ordered. However, the effective date of the new rule was April 1, 2008, and it is the responsibility of the designated broker and the licensee to make sure advertising is in compliance with the rule.

2. Do I have to have my company name and contact information on my home answering machine or on my personal cell phone voice mail?

Personal numbers are just that, personal. The company name and contact information are not required on the voice mail or answer machine greetings of your personal numbers.

3. I use my "DID" (direct inward dial) number, that is, the company number that rings directly to my desk, on my advertising materials such as sign riders and written advertisements. Is this acceptable as a company number?

No, it is not. The company contact information also must be on the advertisement. As the rule states, "advertising must include information on how the public can contact the real estate brokerage agency."

4. We run our open house advertising in the MLS advertisement. Is the full company name and telephone number required if the advertisement is a part of the MLS open house advertisement?

If an open house advertisement is part of the Board's or Association's MLS open house advertisement, the following guidelines apply:

- The ad must contain the Board or Association name and contact information, such as telephone number and website address, and
- Each individual open house advertisement must include the real estate company name as licensed.

5. Can the contact information be the company's website or email address rather than the telephone number?

The rule requires advertising include information on how the public can contact the real estate brokerage agency. The purpose is to provide the consumer with a workable means to contact the company, not just the salesperson. Contact information can be any of the following:

- the company street address
- the company telephone number
- the company email address
- the company website address

6. How small is too small for the company name on an advertisement?

The requirement is that the brokerage agency's trade name be **prominently displayed** on advertising. The company trade name, as licensed with the commission, must be easily read and apparent to the public as it views the advertisement.

FTC Offers Tutorial for Businesses On Protecting Personal Information

(used with permission from the FTC)

Protecting Personal Information:

Five Steps for Business

By Lesley Fair

What's in your file cabinet right now? Tax records? Payroll information? And what's on your computer system? Financial data from your suppliers? Credit card numbers from your customers? To a busy marketer, those documents are an everyday part of doing business. But in the hands of an identity thief, they're tools for draining bank accounts, opening bogus lines of credit, and going on the shopping spree of a lifetime – at the expense of your company, your employees, and the customers who trust you.

Sophisticated hack attacks make the headlines, but many security breaches could be prevented by common sense measures that cost companies next to nothing. That's why the Federal Trade Commission (FTC) has published Protecting Personal Information: A Guide for Business, a plain-language handbook with practical tips on securing sensitive data. The specifics depend on the size of your company and the kind of information you have, but the basic principles remain the same. Whether you work for a multinational powerhouse with branches around the world or a start-up based in a home office, a sound information security plan is built on these five key practices:

Take stock. Know what personal information you have in your files and on your computer. Understand how personal information moves into, through, and out of your business and who has access – or could have access to it.

Scale down. Keep only what you need for your business. That old business practice of holding on to every scrap of paper is “so 20th century.” These days, if you don't have a legitimate business reason to have sensitive information in your files or on your computer, don't keep it.

Lock it. Protect the information you keep. Be cognizant of physical security, electronic security, employee training, and the practices of your contractors and affiliates.

Pitch it. Properly dispose of what you no longer need. Make sure papers containing personal information are shredded, burned, or pulverized so they can't be reconstructed by an identity thief.

Plan ahead. Draft a plan to respond to security incidents. Designate a senior member of your team to create an action plan before a breach happens.

Get your copy of Protecting Personal Information: A Guide for Business at www.ftc.gov/infosecurity. While you're there, download copies for your IT manager, your human resources department, your sales staff, and anyone else who comes in contact with customer or employee information.

Lesley Fair is an attorney in the FTC's Bureau of Consumer Protection who specializes in business compliance.

JERRY SCHLOSSER REAPPOINTED TO COMMISSION

Governor Hoeven has appointed Jerry Schlosser to a second 5-year term on the Real Estate Commission. The appointment is effective July 1, 2008 and runs through June 30, 2013. Commissioner Schlosser was first appointed to the Commission in 2003. The Commission congratulates Jerry on his reappointment.



In Memory

The ND Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensees who recently passed away:

Harold J. Kohler, Bismarck

Larry P. Kambeitz, Bismarck

Do You Know Who's Looking at Your Client Files?

[Editor's Note: This article is reprinted, with permission, from the Spring 2008 ALQ/Real Estate Intelligence Report.]

Brokers who wonder what the next big headache in real estate will be may not have to look far to find the answer. In fact, it may be lurking in the file drawers where they keep their closed transactions.

With identity theft all over the headlines and bad guys increasingly finding ingenious ways of coming up with names, addresses, and bank account, Social Security and credit card numbers, the truth is that a lot of sensitive data is routinely being stored in real estate offices and it wouldn't take a computer mastermind to extract it.

In Florida last year, a rash of identity thefts was traced back to a man who worked nights as a janitor at a real estate office. He used his spare time to comb through files that sometimes were left sitting on agents' desks.

More recently, authorities in the Midwest found thousands of transaction records from a defunct mortgage broker unceremoniously discarded in a dumpster. No effort had been made to shred sensitive client information.

A quick snapshot survey by Real Estate Intelligence Report found brokerages keep files:

- In unlocked file drawers "in the basement."
- "In boxes on the floor of the (unlocked) storage room" until they are moved upstairs.
- "In folders on (open) shelves in the conference room."

And then there are those records – who knows how many – that are kept in the trunks of agents' cars or stacked on desks in their home offices.

ARELLO aware

Debbie Campagnola, CEO of the Association of Real Estate License Law Officials (ARELLO), says she is personally aware of many offices where transaction documents are just stacked in boxes in a corner.

"Documents aren't usually very well protected," she says. "I imagine there are many brokerages that don't even have a policy with respect to privacy. A lot of brokers have mortgage brokers sitting in their offices. A lot of agents are doing loan originations. They're collecting Social Security numbers and bank account numbers."

"There hasn't been very much attention paid to this. Keeping documents secure is as important as security when you set up a showing or put a lockbox on somebody's house."

And none of the above scenarios even considers the data kept on stealable laptop computers and desktop computers that aren't password protected.

Campagnola said state real estate commissions typically require brokers to keep all the paperwork from transactions for several years before being allowed to discard it. Many brokerages keep it longer than necessary "just to be on the

safe side."

In some cases, supervising brokers may not even know what documents are held in transaction folders and even sales associates may not know what they've got as they sweep all the pieces of paper off the closing table and into a file when the deal is done.

"That's just not adequate," says Brian Lapidus, COO of the global security firm Kroll International headquartered in New York. "That doesn't even look at the problem from an Internet security viewpoint."

"The idea of agents and mortgage brokers keeping data in their cars as they move from place to place is frightening," he said.

"From an IT standpoint, we worry about people who have stored information electronically on unsecured WiFi networks that can be easily accessed. (Stealing) paper documents is even easier."

What can happen

And what can thieves – either the common variety or the electronic version – do once they have real estate client information?

"If you have a name, an address and a Social Security number, the prospects are endless," Lapidus said.

"Someone can open credit cards in (your client's) name and run up the charges. They can take out loans and second mortgages. With enough information, they could even sell your home out from under you."

Credit card companies historically have written off bad debts once a claim has been submitted, but that doesn't resolve the issue of destroyed credit and the months, and sometimes years, it can take for individuals to restore their good credit, to say nothing of their reputations.

And consumers increasingly are not being very forgiving of companies that lose their data. Earlier this year when the Hannaford Brothers and Sweetbay grocery groups lost track of 4.7 million customer credit card numbers – resulting in an estimated 1,800 cases of fraud – irate consumers filed a class action lawsuit against the supermarkets.

"I'd think that sort of publicity would be terrible for a real estate company," Lapidus said. "Real estate agents build their relationships on trust. If you lose a client's data, how do they ever work with you again? Or your company?"

The security expert says keeping private information secure is becoming an ever greater challenge but there are things that can be done.

First, he says, "don't collect the information you don't really need. A lot of businesses collect data because they think they need it. A lot of times they don't."

And second, "get rid of anything you don't need after the transaction is done. If you're a real estate agent, you don't need a lot of information after the deal is closed. You don't need to keep bank statements, tax forms and Social Security numbers. Get rid of them."

A decent shredder costs less than \$50.

Lapidus also says hiring brokers need to be careful about who they bring into their offices as employees – whether as agents, clerical staff or even cleanup crews.

“Do background checks,” he said. “Do your due diligence. Make sure your employees are who they say they are. And make sure everyone knows the office policy and what you expect from them. Make sure they understand what your procedures are for handling documents.”

Real estate educators also need to join in this battle.

“Agents should be getting training about what kind of data is sensitive and what isn’t,” Lapidus said.

Finally, he said, brokers need to have a policy in place in case there is a data breach.

“You need to know what to do; how to handle it,” he said. “What is your procedure going to be?”

A company’s ability to guard information could even be a sales tool, Lapidus said. “When you’re marketing yourself and differentiating yourself, this could be one way to do it. You can show your clients you’re aware that problems exist and you’re doing what you can to prevent it.”

CONTINUING EDUCATION AUDITS

The North Dakota Real Estate Commission has begun auditing continuing education from 2006/07. Be sure you receive a certificate of completion for *every* continuing education course you take and keep your certificates in a safe place. Even though you are *NOT* required to submit proof of continuing education when renewing your license, you *WILL* need to furnish certificates if you are audited.

If you are chosen for the audit, you will receive a notice from the Commission asking you to send copies of your certificates for the 16 hours of approved continuing education you took in 2006/07. The full 16 hours must have been completed **BEFORE** you submitted your license renewal application to the Real Estate Commission.

You will be subject to disciplinary action if you are audited and are unable to show that you had completed the continuing education requirement before submitting your renewal to the Commission. Disciplinary action may include penalties such as a fine, additional education, suspension or revocation of your license.

REMEMBER to be sure you have completed all the requirements for renewal **BEFORE** you submit your renewal application and that you are able to produce all necessary certificates of completion as evidence.

What will you find at www.realestatend.org?

www.realestatend.org is the North Dakota Real Estate Commission web site. If you haven’t had a chance to check it out here are some of the things you will find there:

- *forms
- *information on obtaining a real estate license
- *reciprocity information
- *approved continuing education
- *education providers
- *updated trust account guideline
- *complaint forms
- *newsletters
- *rules and statutes
- *online directory

Looking for someone?

If you want to know if someone is licensed click on the “Online Directory” tab. You will be able to search for an individual who has an active real estate license by first or last name or by company. You can also search nationwide by clicking on the link provided. So next time you want to know if someone is licensed, give our website a try!

Updated Trust Account Guidelines

Updated Trust Account Guidelines are now available. If you would like a hard copy go to the Commission’s website www.realestatend.org, click on the Licensees tab and find “Trust Account Information”. It is available in a PDF document.



Disciplinary Actions Taken

The following disciplinary actions have become effective since the last report in the newsletter.
A Stipulated Agreement is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Name	Complaint#	Hearing Type	Order Date	Violation	Penalty
Bothum, Luke M	2007-09	None	04/21/2008	NDCC 43-23-11.1(1)(b), 43-23-11.1(1)(v), & 43-23-11.1(1)(w). The verified complaint alleged that Mr. Bothum, among other things, acted improperly by altering the purchase agreement or by allowing others to alter the purchase agreement and by misrepresenting who was buying the property.	\$750 fine, \$550 legal & investigate costs & completion of a 6 hr course on real estate contract law.
Braun, Terry J	2007-13	None	04/21/2008	NDCC 43-23-11.1(1)(b), 43-23-11.1(1)(w), & 43-23-12.1. The verified complaint alleged that Mr. Braun, among other things, acted improperly by failing to disclose, in response to a direct inquiry from his represented buyer, that the offer was being brought by an agent in the same real estate brokerage.	\$500 fine, \$800 legal & investigate costs & completion of a 3 hr course on buyer's agency representation.
Deplazes, Jodi J	2007-08	None	01/09/2008	NDCC 43-23-05, 43-23-11.1(1)(p), and 43-23-13.1 Ms DePlazes drafted a purchase agreement for a client while her license was inactive. She stipulated to a letter of reprimand to be placed in her file permanently.	Stipulated to a letter of reprimand.
Ward, Richard A	2007-06	Formal	01/09/2008	NDCC 43-23-11.1(1)(a) Mr. Ward made a material false statements on his application signed February 20, 2008.	License revoked January 9, 2008. Order regarding assessed costs of \$6431.91 signed February 20, 2008.

Non-renewals for 2008

These licensees did not renew their real estate licenses as of March 1, 2008. Any license not renewed by March 1st of each year is cancelled. If your name appears on this list in error please contact the Real Estate Commission office immediately.

Name	LicenseType	Name	LicenseType	Name	LicenseType
Aaberg, Curtis H.....	Broker	Jackson, Karen S.....	Salesperson	Price, Rebecca J.....	Salesperson
Abrahamson, Norris L.....	Salesperson	Jentz, Robert M.....	Salesperson	Radermacher, Timothy L.....	Salesperson
Ahmann, Dean A.....	Salesperson	Johnson, Karen L.....	Salesperson	Rebenitsch, Stephanie A.....	Salesperson
Albers, Peggy J.....	Broker	Johnson, Nikki R.....	Salesperson	Restad, Corrine "Tiny" ..	Broker Associate
Anderson, Beth J.....	Salesperson	Kalinowski, Richard V.....	Salesperson	Reynolds, Jeremy D.....	Salesperson
Anderson, Leif K.....	Salesperson	Kambeitz, Larry P.....	Broker Associate	Reynolds, Shannon N.....	Salesperson
Anderson, Marilyn Y.....	Salesperson	Kearns, Craig J.....	Salesperson	Rinkenberger, Lynnae L.....	Salesperson
Arman, Richard C.....	Salesperson	Kerr, Regina M.....	Salesperson	Roberts, Nathan L.....	Salesperson
Bachmeier, Vincent.....	Salesperson	Kinstad, Lester A.....	Broker	Rott, Lisa J.....	Salesperson
Beagle, John G.....	Broker	Kloster, Thomas N.....	Broker	Saylor, Sonja J.....	Salesperson
Beisner, Charles A.....	Broker	Kloster, Thomas N.....	Broker	Schatz, Dennis M.....	Salesperson
Binfet, Kelly E.....	Salesperson	Klosterman, Daniel S.....	Salesperson	Schilken, Christopher P.....	Salesperson
Bohnet, Anne V.....	Salesperson	Kouba, Donald A.....	Salesperson	Schindler, Rodney A.....	Salesperson
Bordner, Pamela S.....	Salesperson	Krajeck, Stephen P.....	Broker Associate	Schultz, Patrick F.....	Salesperson
Bosor, Kristine L.....	Salesperson	Kratzke, Daletta M.....	Salesperson	Schwinghammer, Roger L.....	Broker
Boss, Patrice M.....	Salesperson	Lacina, Paul A.....	Salesperson	Shaw, Larry J.....	Salesperson
Brandt, Melinda M.....	Salesperson	Lanum, Roger A.....	Salesperson	Simon, Cindy L.....	Salesperson
Carlascio, Bart M.....	Salesperson	Lareva, Jodi M.....	Salesperson	Sims, Michael G.....	Salesperson
Carr, Richard J.....	Broker	Larson, Leah M.....	Salesperson	Skjerseth, Troy M.....	Salesperson
Chambers, Robert T.....	Broker	Larson-Smith, Alison G.....	Salesperson	Skoda, Frederick.....	Broker
Charlson, Brian L.....	Salesperson	Lauerman, Greta A.....	Salesperson	Sletten, Terry L.....	Salesperson
Christensen, Andrea L.....	Salesperson	LeBlanc, Lois A.....	Broker	Staller, Joelle L.....	Salesperson
Clark, David K.....	Broker	LeClerc, Ray.....	Broker	Stenerson, Loralea.....	Salesperson
Cline, Harry H.....	Broker	Lindstrom, Cody C.....	Salesperson	Stevens, Karen L.....	Salesperson
Clooten, Coleen J.....	Salesperson	Lush, Jody R.....	Salesperson	Stine, Marilyn J.....	Salesperson
Costello, Daniel J.....	Broker	Lynnes, Carrie L.....	Salesperson	Striefel, Lila G.....	Broker Associate
Deitemeyer, Tina R.....	Salesperson	Mallberg, Leon L.....	Broker Associate	Stroh, Dorletta "Dee".....	Salesperson
Deltener, Laura M.....	Salesperson	Malstrom, Marlene H.....	Broker	Sukauskas, Deborah M.....	Salesperson
Doele, Patricia J.....	Broker	Marcellais, Sandra R.....	Salesperson	Swan, Virginia L.....	Salesperson
Eberle, Steve J.....	Salesperson	Martín, Ronald "Ron" W.....	Salesperson	Swartwout, Shawn L.....	Salesperson
Eid, David R.....	Broker	Mayer, Matt J.....	Salesperson	Swenson, Melissa L.....	Salesperson
Eiseman, Walter J.....	Broker Associate	McGuire, Betty A.....	Broker Associate	Taylor, Alex.....	Salesperson
Eiseman, Walter J.....	Broker Associate	McTighe, Jennifer J.....	Salesperson	Teets, David F.....	Salesperson
Emerling, Thomas C.....	Broker	Memovic, Olivera.....	Salesperson	Timian, Richard B.....	Broker Associate
Emter, Adam R.....	Salesperson	Meyer, Kimberly N.....	Salesperson	Toole, Alicia A.....	Salesperson
Emter, Roger A.....	Salesperson	Mikkelson, Gregory L.....	Salesperson	Traiser, Christopher M.....	Broker Associate
Feeken, Sarah M.....	Salesperson	Mikkelson, Michael S.....	Broker	Traub, Vickie A.....	Salesperson
Fettig, Leroy P.....	Salesperson	Miller, Patricia D.....	Salesperson	Tritschler, David D.....	Salesperson
Finney, Steven R.....	Salesperson	Moen, Nichole C.....	Salesperson	Vail, Brent M.....	Salesperson
Fladland, Anita J.....	Salesperson	Monzelowsky, Rhonda L.....	Salesperson	Volk Lovdahl, Shannon M.....	Salesperson
Fleck, John F.....	Salesperson	Morton, Bettye E.....	Salesperson	Ward, Tammy.....	Salesperson
Haley, James P.....	Salesperson	Moulton, Timothy R.....	Salesperson	Waterman, Sharon M.....	Salesperson
Hanken, Robert J.....	Salesperson	Northhagen-Kruse, Doreen A.....	Salesperson	Weeding, Mark A.....	Broker
Hanson, Lyle S.....	Broker	Omoth, Alan P.....	Salesperson	Weltz, Shawn D.....	Salesperson
Hauger, Kim G.....	Salesperson	Opp, Bruce E.....	Broker Associate	Wiesen, Kenneth C.....	Broker Associate
Hearnen, Kevin T.....	Salesperson	Perfett, Annette K.....	Salesperson	Willette, Joel C.....	Salesperson
Hegland, Tomy D.....	Broker	Person, Gretchen E.....	Salesperson	Winter, Scott M.....	Salesperson
Hettich, Dawnell R.....	Salesperson	Peterson, Arlene J.....	Salesperson	Young, Denise E.....	Salesperson
Holman, Paulette F.....	Salesperson	Peterson, Ronald C.....	Broker Associate	Zamow-Laney, Vicki L.....	Salesperson
Horton, Kathryn A.....	Salesperson	Platt, Charles L.....	Broker	Zeis, Linda M.....	Salesperson
Iverson, John J.....	Broker	Pohlman, Berentje C.....	Broker	Zluticky, Marjorie A.....	Salesperson
Iverson, Roger L.....	Salesperson	Pontbriand, Cynthia D.....	Salesperson		

ARELLO

GLOBAL MEMBERSHIP TASK FORCE

Commissioner Youngberg has been appointed by ARELLO President, Syd Machat as Chair of the Global Membership Task Force.



The charges/goals of this task force are:

1. Review and assist jurisdictions around the world as they move along the path of establishing real estate regulatory systems.
2. Provide a 2008 update on Mexico's registration of a new professional career of real estate (similar to lawyers and doctors)
3. Review foreign organizations with missions similar to jurisdictions with ARELLO memberships as potential members.
4. Continue to maintain and/or establish contacts and communicate with other international real estate organizations.
5. Explore potential education programs for the Annual Meeting that will provide a forum for ideas of issues and trends in international consumer protection and security in real estate transactions.
6. Report findings and recommendations at 2008 Annual Meeting.

Youngberg sees this effort as a way to not only assist other countries in helping other countries begin to provide the protection for the participants in a real estate transaction as the ND Real Estate Commission does for people in North Dakota but also for people in North Dakota that are involved in real estate transactions any where in the world.

This is also a way for ARELLO to offer services for a fee to other organizations that will make the financial picture of ARELLO even more stable.

Tidbits of information

- **BROKER SIMULATION EXAM IS COMING:** August 11, 2008 is the date the new North Dakota broker simulation exam will be launched. The exam will consist of 12 problems of which 10 are scored (the other 2 are problems being pre-tested and do not reflect in the score). Applicants will have 3.5 hours in which to complete the examination. Simulation problems place the examinee in situations where information regarding the situation must be gathered and decisions made on how to proceed through the problem in the most effective manner. This role-playing places the examinees in "real life" situations and allows them to work through the situation. The Commission believes that this format will better measure the skills needed to conduct licensed real estate activities. This will replace the current national & state multiple choice exam format.
- **ERRORS & OMISSIONS INSURANCE:** Providing a copy of the completed application form for errors & omissions insurance is not acceptable proof of insurance. Licensees must provide a copy of the Certificate of Coverage before a license will be issued.
- **ONLINE CE:** For those who take their ce online – please carefully read the directions on receiving your ce slip. Printing out your completion notice does not constitute a ce slip and cannot be submitted as proof of continuing education.
- **NEW LICENSEES:** If you have completed your 15 hours of post licensing in 2008 you are exempt from this ce cycle (2008/09) HOWEVER, if you completed your 15 hours post licensing education in 2007 you will need to comply with the ce requirements of this ce cycle. If you are not sure about your situation call our office. 701-328-9749
- **2008/09 CE REQUIREMENTS:** Start taking your ce now for 2008 renewal. You will need to have completed a minimum of 6 hours of ce by December 31, 2008. These hours must be completed prior to you sending in your license renewal.

HUD Publishes RESPA Rule

U.S. ARELLO jurisdiction members whose laws or policies are directly or indirectly affected by RESPA will want to review HUD's long awaited proposal to change its 30 year old RESPA regulations. HUD says that its intent is to simplify and improve mortgage settlement disclosures under RESPA, better protect consumers from unnecessarily high mortgage loan and refinance fees and encourage consumers to shop for loans and related services. HUD says that the new rules would:

- * Improve and standardize the Good Faith Estimate Form (GFE);
- * Require GFEs that provide a clearer summary of loan terms and charges;
- * Enhance accuracy of settlement cost estimates;
- * Improve disclosure of yield spread premiums so that consumers have a clearer understanding of how those costs affect settlement charges;
- * Facilitate comparison of the GFE and the HUD-1 Settlement Statement;
- * Ensure that, at the time of settlement, consumers are made aware of the final loan terms and settlement costs by requiring that a "closing script" be read to borrowers;
- * Clarify HUD-1 instructions, calculations, and regulations regarding loan discounts and when RESPA permits pricing mechanisms such as average cost pricing and specific types of discounts; and,
- * Provide a new definition of "Required Use" under rules applicable to "Affiliated Business Arrangements".

The lengthy rule filing and a 600 page regulatory impact analysis are available at www.hud.gov.

Reprinted with permission from ARELLO from the April 1, 2008 ARELLOGram.

Requirement for all owners to sign listing agreement in ND

By: Constance N. Hofland

Special Assistant Attorney General to the Real Estate Commission

North Dakota by statute and by administrative rule requires all owners sign the listing agreement.

Section 43-23-11.1(1)(i) provides as one of the grounds for disciplinary action, offering real estate for sale without the consent of the owner or owner's agent. Specifically that section provides that a licensee can be disciplined for:

"Offering real property for sale or lease without the knowledge and consent of the owner or the owner's agent or on any terms other than those authorized by the owner or agent."

While the singular "owner" is used, the statute does not use the term "any owner" or "an owner" but rather "the owner." Also, the statute says a licensee can be disciplined for offering a property for sale without the consent of the owner; so if you get the consent of only one of two owners, you are offering the property for sale without the



consent of the other owner. I think it is likely this would be interpreted to mean the licensee must get consent of all owners of the property.

Additionally, 70-02-03-04 of the administrative rules requires listing agreements include signatures of all parties concerned. That rule provides in part:

"the licensee shall obtain a signed listing agreement in writing from the seller, properly indentifying the listed property and containing all of the terms and conditions under which the property is to be sold; including the price, the commission to be paid, **the signatures of all parties concerned**, and definite expiration date prior to the time that the property is advertised or offered for sale." (Emphasis added).

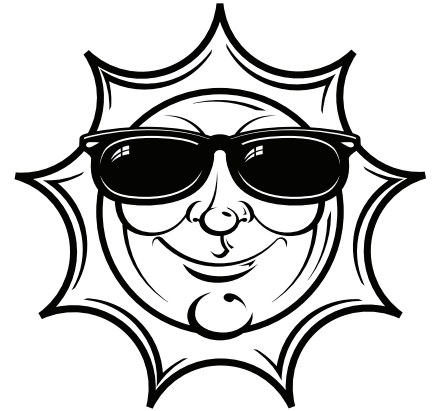
SUMMER

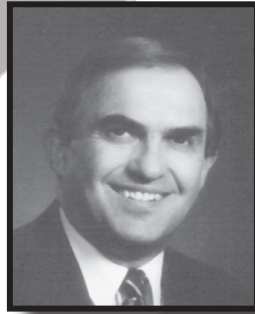
NORTH DAKOTA REAL ESTATE COMMISSION

GOALS

The Real Estate Commission began setting goals in 2004. These goals are reviewed at every commission meeting.
(The Checked Items have been completed.)

- Pay off existing obligations.
- Reestablish trust account audits.
- Handle complaints within 2 months of their filing.
- Develop and maintain a licensee database.
- Develop a web site.
- Computerize forms.
- Redesign the licensee directory.
- Respond to inquiries in a professional manner whether by email or written correspondence.
- Research requiring background checks for license applicants.
- Research minimum service guidelines.
- Review reciprocal license agreements.
- Implement online license renewals.
- Provide a brochure to brokers to be used as guidelines for maintaining their office records.
- Research electronic storage of office records.
- Become current with technology – then move ahead. (ongoing)
- Maintain the Commission’s web site. (ongoing)





Roger Cymbaluk
Chair



Kris Sheridan
Vice Chair

Roger Cymbaluk, Williston, has officially taken the position as Chair of the Real Estate Commission and Kris Sheridan, Fargo, will serve as Vice Chair. The two will serve in these leadership positions from July 1, 2008 through June 30, 2009.

Continuing Education Hours Required at the End of the Calendar Year

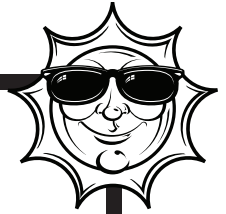
Licensees are reminded that they are required to complete a total of six (6) hours of continuing education by no later than December 31, 2008 unless specifically exempted by statute. Credit is given for courses taken January 1, 2008 through December 31, 2008.

Reminder: the 6 hrs of mandatory education for the 2008/09 ce cycle are approved courses in agency and contract law. Mandatory ce must be completed by December 31, 2009.

License Stats (as of June 20, 2008)

Active brokers.....	372
Active broker associates	230
Active salespersons.....	1225
Total active licensees	1827
Inactive brokers.....	42
Inactive broker associates	12
Inactive salespersons.....	237
Total inactive licensees.....	291
Total Active Companies	376

SUMMER



2008/09 Real Estate Required Courses

At their November 7, 2007 meeting, Commissioners determined that the 2008/09 required education for the renewal of real estate licenses would be as follows:

There will be a total of 6 hours of required education for the 2008/09 continuing education cycle devoted to one or more of the following topics:

- agency
- contact law

A licensee can choose any topic or combination of topics to fulfill the 6 hour education requirement as long as the course or courses have been approved by the North Dakota Real Estate Commission for that purpose.

North Dakota Real Estate
News & Views is an
Official Publication of the
North Dakota Real Estate Commission
Editor.....Pat Jergenson
North Dakota Real Estate Commission
North Dakota Real Estate Commission
P.O. Box 727
200 E. Main Ave., Suite 204
Bismarck, ND 58502-0727
701-328-9749

Presort Standard
U.S. POSTAGE
PAID
Bismarck, ND
Permit No. 419