



SPRING 2019

Division of Real Estate & Professional Licensing

Ohio Department of Commerce

NEWSLETTER



Superintendent's Article

by *Anne M. Petit*

While I thought the wind up to 2018 was wild, it appears that quarter couldn't hold a candle to the wild ride that has turned into the first quarter of 2019! From the perspective of the Department, and certainly the Division, there was nothing "lame" about the 132nd Ohio General Assembly's lame duck session. The final months of the year brought several new regulatory responsibilities our way, which are keeping us moving full-tilt so far this year.

On Sept. 25, 2018, the Ohio Supreme Court issued a decision affirming the Division's interpretation that Ohio Revised Code 4735.01 activities requiring a real estate license includes the negotiation of oil and gas leases. The Court issued Slip Opinion No. 2018-Ohio-3826, which states that "R.C. 4735.01 contains no exception for oil-and-gas leases or oil-and-gas land professionals." This opinion led to Amended Substitute Senate Bill 263, which will structure the registration process for land professionals in Ohio.

Additionally, new home inspector legislation passed both the house and the senate. Amended Substitute Senate Bill 255, which included the creation of the Ohio Home Inspector Board and the framework for licensure of home inspectors operating in Ohio, was signed by then-Governor Kasich and is effective April 5, 2019. There are a few delayed effective dates, including Nov. 1, 2019, the date by which anyone conducting a home inspection for compensation or other valuable consideration must hold an active Ohio home inspector license. There are also provisions under which individuals currently engaged in the industry may gain a license prior to the November 1 deadline.

All of this came at the end of a busy 2018, which saw the beginning of our oversight of the Manufactured Homes Program and Appraisal Management Company licensing. With several new programs to forge, we are full speed ahead into 2019!

Appraisal Management Companies

[House Bill 213](#), Ohio's Appraisal Management Company (AMC) law created a new chapter of Ohio Revised Code – O.R.C. 4768. – and became effective December 2018. The bill included an amendment to the appraiser program statute (O.R.C. 4763) addressing what Ohio's credentialed appraisers are required to include in an appraisal report for an AMC assignment.

Specifically, [O.R.C. 4763.12\(C\)\(6\)](#) and (C)(7) require that the Ohio license number of the AMC be included in the report

Table of Contents	
Superintendent's Article.....	1
Ethically Speaking: Am I answering the questions correctly?.....	3
ARELLO President, Anne Petit.....	3
Access to Properties for Principal Broker.....	4
East Cleveland Cable Service.....	4
FCC Assists with TV Rescan.....	5
Board Committee Members.....	6
Disciplinary Actions.....	7-8

continued



Superintendent's Article *continued*

and that the appraiser identify either the actual fees he or she is being paid for the assignment, or in the alternative, that the appraiser completing the assignment is an employee of the AMC and no separate fee was paid.

We have advised AMCs that are in the process of applying for an Ohio license to have appraisers note that there is no AMC license number, that the "application is in process." The Division and Ohio Real Estate Appraiser Board will recognize that approach until the "grace period" ends on March 31, 2019. As of April 1, (no fooling!) an AMC providing services in Ohio without being properly licensed may be found in violation of Ohio license law.

Home Inspectors

Amended Substitute Senate Bill 255 was signed into law on Jan. 4, 2019, creating the Home Inspector Program, to be headed up by the Division. Part of the new program establishes home inspector licensure in Ohio, adding a crucial layer of regulation previously missing from the home buying process. Ohio is the 34th state to have a program in place regulating home inspectors. Overall, this program aims to give potential homebuyers, making arguably the biggest purchase of their lives, peace of mind in knowing any inspector they plan to hire has a certain level of education and experience.

Beginning Nov. 1, 2019, any person performing a home inspection for a client, for compensation, must be actively licensed with the Division. Once all members of the Ohio Home Inspector Board (OHIB) are appointed, existing Ohio home inspectors may apply for a "grandfathered" license. That window of opportunity will remain open for 120 days. A date certain will be published once the last appointment is made to the OHIB, however the latest date for all appointments to be made is July 4, 2019.

The responsibilities of regulating the home inspector industry include:

- Adopting rules, including a Code of Ethics and Standards of Practice, which guide licensees' delivery of services;
- Determining the education and experience required for obtaining a home inspector license;
- Determining and monitoring continuing education requirements;
- Approving both pre-licensing and continuing education curricula and providers;
- Administering the duties and operation of the Ohio Home Inspector Board;
- Administering enforcement duties including investigation of complaints against licensed home inspectors; and
- Investigating allegations of unlicensed activity.

Be sure to sign up to receive email updates on the status of the program and receive important dates, access to applications and other forms. [Click here](#) to submit your email address.

Anne Petit, Superintendent



Ethically Speaking: Am I answering the questions correctly?

When applying to sit for a license exam or renew/transfer a current license, keep in mind that answering "YES" on any of the six ethical questions will require a letter of explanation to accompany the submitted paperwork. It's important the questions marked with a "YES" response are answered truthfully and include a full explanation attached to the application in order to expedite processing.

It is critical to disclose unsatisfied judgments (which could include, but are not limited to, tax liens and foreclosures), all convictions, or interventions in lieu of convictions for unlawful conduct (which could include misdemeanors such as DUI's and disorderly conducts). Once you disclose a conviction, suspension or discipline on paperwork submitted to the Division, you do not need to disclose it again. For example, a licensee submits a request to transfer and discloses a court ordered judgment – in this case, the licensee will not need to disclose this judgement again on their next renewal.

Please note that a licensee must also disclose if they have been notified that a complaint has been filed against the them by any entity, including the Division of Real Estate & Professional Licensing. Further, if the complaint results in disciplinary action, the licensee must disclose the disciplinary action on any application filed immediately after receiving the order imposing discipline.

If a licensee is submitting a transfer/reactivation form because of a current suspension, the licensee will need to mark "YES" on the ethical question about suspension. A description of why the licensee is/was suspended (i.e. non-renewal, late submission of 20-hour post-licensing, discipline, etc.) should be included in the explanation. About 25 percent of



Supt. Petit Installed as President of ARELLO!

The Division of Real Estate & Professional Licensing is proud to announce that our own Superintendent Anne Petit was installed as president of the Association of Real Estate License Law Officials (ARELLO) on Sept. 29, 2018.

ARELLO is an international organization founded in 1930, whose mission is to support jurisdictions in the administration and enforcement of their real estate license laws. Supt. Petit was installed at this year's Annual Convention in St. Louis, accompanied by the members of the Ohio Real Estate Commission and Division Counsel Kim Wells.

As president, Supt. Petit will preside over meetings of the board of directors and senior officers, advise the board on policy matters and see to the implementation thereof, and act as the official spokesperson of the association. Her installation is especially exciting as she is the only person to have served as both the President of ARELLO and President of the Association of Appraiser Regulatory Officials (AARO).

Congratulations to Supt. Petit on this great honor!



Ethically Speaking *continued...*

all forms received by the Division with one or more ethical question marked "YES" have no explanation attached. The absence of this required documentation causes further delay and disrupts the Division's ability to serve customers in a timely and efficient manner.

If a licensee has been convicted of a felony since the licensee's last application (renewal/transfer/reactivation), the licensee has 15 days from the date of the conviction to report the conviction to the superintendent of the Division [Ohio Revised Code Section 4735.13(C)]. If the conviction is not disclosed by a current licensee within the statutorily required time, the licensee's license may be immediately suspended. Further, the licensee must disclose the conviction on the first application of any type following the conviction, including court documents (i.e. court order(s) and sentencing order) and a letter of explanation. As always, if in doubt on answering any of the ethical questions or required documentation, please feel free to contact the Division.



Access to Properties for Principal Broker

On Nov. 26, 2018, a letter was sent to each principal broker regarding the issue of unsupervised and/or unauthorized access to properties. The Ohio Real Estate Commission hears a variety of cases each month, and recently, there have been an alarming number of cases involving potential buyers, contractors or others gaining access to homes or being left in properties without a licensee present. A variety of reasons for the unsupervised/unauthorized access have been given including running behind or that they have a relationship with the person and trust the individual.

The Division of Real Estate & Professional Licensing is aware of language in some listing agreements that addresses the issue of the seller providing consent for access to the property. The Division recommends consulting with private legal counsel for guidance on specific language for the listing agreements that will demonstrate such informed consent.



East Cleveland Cable Has Video Service Authorization Revoked

On Nov. 21, 2018 the superintendent of the Division of Real Estate & Professional Licensing, on behalf of the director of the Department of Commerce, issued a final order revoking the video service authorization for East Cleveland Cable TV ("ECCTV") and fined the company \$40,000 for violations relevant to Ohio Revised Code (O.R.C.) Section 1332.26 (D)(1) and (4).

O.R.C. 1332.26 (D)(1) requires cable providers to restore video service to subscribers within 72 hours after a reported outage. In this case, ECCTV did not restore cable service to subscribers after they reported the loss of service on several channels.

Further, O.R.C. 1332.26(D)(4) requires cable companies to provide 30 days written advance notice to subscribers prior to removing a channel. In this case, ECCTV removed over 40 channels without notice to subscribers. ECCTV provides video service to residents in the cities of East Cleveland and Cleveland. The Division received over 400 complaints from ECCTV subscribers.

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Access to Properties *continued...*

As a licensee, listing agents have a fiduciary responsibility to the seller client to ensure their lawful instructions are followed. If the licensee has not received written, informed consent from the client permitting unsupervised access, then to permit such unsupervised access is a violation of license law and will likely result in disciplinary action including a fine, education, and/or license suspension.

Licensees working with buyer clients have represented the majority of these cases before the commission thus far. It is imperative that buyers' agents seek and receive the consent of the listing agent and/or the homeowner before permitting unlicensed individuals access to the property without a licensee present. Regardless of whether the property is occupied or vacant, prior informed consent is necessary.

Division personnel are available to answer inquiries, but please note, it is the duty of the principal broker(s) to set the policy and ensure that all affiliate licensees are aware of their responsibilities. The principal broker(s) should ensure all affiliate licensees can obtain guidance on this matter in each brokerage company policy.

FCC Assists with TV Rescan

Do you watch local broadcast TV channels over-the-air using a digital antenna? If so, you should know that many over-the-air TV channels across the United States have changed and will be changing frequencies in 2019. The actual channel numbers on consumers' TVs will not change, but a change in frequency impacts how a channel is received over the air by a TV receiver.

If consumers watch free over-the-air television with an antenna, they will need to rescan their TV set each time a local station moves to a new frequency to be sure that the TV recognizes the new frequency when consumers tune in to that channel. TV stations will make on-air announcements at least 30 days in advance of making the change. Viewers who subscribe to cable or satellite services do not need to take any action to continue receiving local channels.



The Federal Communications Commission announced the launch of a special call center dedicated to helping viewers of over-the-air television rescan their TVs during the ongoing transition of local TV channels to new frequencies. Viewers may reach the call center toll-free by dialing 1-888-CALLFCC (1-888-225-5322) and pressing "6" to speak to a help desk representative. The call center is staffed from 8 a.m. to 1 a.m. Eastern time, seven days a week, to enable consumers throughout the country to obtain assistance during evening and weekend hours.

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New Board and Commission Members



Peter McLinden was appointed to the Ohio Real Estate Commission as the public member on July 13, 2018. McLinden graduated from John Carroll University (B.A., 1992) and the University of Akron (J.D./M.P.A., 1997). Currently, McLinden serves as the executive secretary-treasurer for the Cincinnati AFL-CIO Labor Council, as well as the vice chairperson of the City of Cincinnati Civil Service Commission. McLinden is also on the executive committee/board of directors for the United Way of Greater Cincinnati, the Southwest Ohio Regional Transit Authority, Greater Cincinnati Occupational Health Center, Cincinnati Union Cooperative Initiative and serves as the president of the Southwest Area Labor Federation, AFL-CIO.



Guy T. Wesselkamper was appointed to the Ohio Real Estate Appraiser Board on Oct. 26, 2018. Wesselkamper has had a long and active career in the real estate industry, being licensed as a real estate salesperson in 1975 and eventually turning to full-time appraising in 1983. He became a licensed residential appraiser in 1991 and a certified residential appraiser in 1996. Wesselkamper was a director for the Cincinnati Area Board of Realtors from 2015-2017, the first full-time appraiser to ever hold this position, and was recently re-elected to serve an additional term from 2019-2021. He has also served on numerous committees in the organization over the past 30+ years and has also been active on many committees for the Ohio Realtors, including serving as chair of the Appraisal Forum in 2018. Wesselkamper was a founding member and past president of the Ohio Coalition of Appraisal Professionals. Currently, Wesselkamper lends his expertise as a certified residential appraiser at Signature Appraisal, LLC.



William Fall was appointed to the Ohio Real Estate Appraiser Board, the first named to the newly created Appraisal Management Company seat, on Nov. 7, 2018. Fall is the chairman and CEO of the William Fall Group, a national residential and commercial real estate valuation firm located in Toledo that has over 40 regional offices in 17 states. A 30+ year industry veteran, he has participated in experience review groups for both the SRA and MAI designations, as well as disciplinary committees for the Appraisal Institute. He is a member of the Collateral Risk Network, the Industry Advisory Council of the Appraisal Foundation, a task force member for The Appraisal Qualification Board of the Appraisal Foundation, and is a member of The Mortgage Bankers Association.



Disciplinary Actions through October 2018—Real Estate

Listed below are the Real Estate Disciplinary Actions through October 2018.

[Summaries](#) are also available online.

REVOCATIONS

Jennifer Lynn Ackerman	Salesperson	Barnesville
Timothy C. McCloud	Salesperson	Green

SUSPENSIONS/FINES/EDUCATION

Alexander Soskin	Principal Broker	Westerville
John Moulton Houk III	Salesperson	Columbus
Kimberly D. Wilson	Salesperson	Cambridge
Patricia J. DeCavitch	Salesperson	Warren
Edward William Wolf	Salesperson	Bay City
David W. Wellinghoff	Salesperson	Cincinnati
David E. Barlow	Principal Broker	Powell
Karen A. Seeliger	Salesperson	Bowling Green
Tracy Jo Neanover-Meares	Salesperson	Sabina
Kathy L. Chiero	Salesperson	Columbus
Darling L. Hatcher	Salesperson	Macedonia
Lisa Marie Bilinski	Salesperson	Willoughby
Carolyn Leslie Fenton	Salesperson	Mayfield Heights
Wellesley Henderson	Salesperson	Cincinnati
Jordan Thomas Meyer	Salesperson	Loveland
Jordan Charles Weber	Salesperson	Youngstown

UNLICENSED ACTIVITY

Tom Gilmartin	Youngstown
Lazarus Project, Inc	Youngstown



Disciplinary Actions through October 2018—Appraiser

Listed below are the Appraiser Disciplinary Actions through October 2018.

[Summaries](#) are also available online.

REVOCATIONS/SURRENDERS/OTHER

None

SUSPENSIONS/FINES/ADDITIONAL EDUCATION & REPRIMAND

Harry Darks

Appraiser

Cincinnati