



The Ohio
Department
of Commerce

Summer 2006

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

Bob Taft
GOVERNOR

Doug White
DIRECTOR

Kelly Davids
SUPERINTENDENT



by Superintendent Kelly Davids

In government, the beginning of summer marks the end of our yearly operating cycle. As the calendar changes from June to July, we wrap up obligations for one year, and we begin anew. This timetable also coincides with the terms of the Ohio Real Estate Commission and its Education and Research Committee members as well as the Ohio Real Estate Appraiser Board.

In June, we bid farewell to Real Estate Commissioner Cheryl Churchill. Cheryl's service began as a member of the E&R Committee. Her leadership and expertise gave rise to a gubernatorial appointment to the

Commission in 1996 and reappointment in 2001. Cheryl opted to refrain from submitting her name for reappointment, choosing instead some well-deserved rest and relaxation.

The Division also expressed our thanks to Appraiser Board Chair Lawrence Kell, Sr. as statutory term limits forced the end of his service. Larry's prominence and respect in the appraiser profession earned him appointments in 1994, 2000 and 2003. Larry was a fair and tough minded member of the Board, and demanded a high level of professionalism from those licensed or certified to perform appraisals.



Front Row (left to right): Real Estate Commission President Owen Hall, Cheryl Churchill, Shirley Davis and Commerce Director Doug White. Back row: John Kennedy and David Paul.



Front Row (left to right): Margaret Hambleton, Michael Koren, Lytle Davis and Brian Barnes. Back row: Superintendent Kelly Davids, outgoing Appraiser Board Chairperson Lawrence Kell and Commerce Director Doug White.

Term limits also brought about the end of William J. Connors' service to the E&R Committee. Bill was a faithful member, working diligently throughout his terms. Although his term has ended, his work has not as he pushed the committee to continue pursuing options for dealing with lingering funds in trust accounts - the work he began that will impact brokerages all across our state.

Cheryl, Larry, and Bill each performed exemplary service in their respective roles. As this newsletter goes to print, their replacements are being considered. The new appointees will have large shoes to fill indeed!

This new operating year brings with it a renewed sense of focus and purpose. It reminds us of our mission to provide fair and consistent industry regulation while informing and protecting consumers. Those who serve on our Real Estate Commission, Appraiser Board, and committees help us achieve this mission. Please join me in saluting all members for their service and in thanking them for their efforts - both past and present.

Meet the Appraiser Licensing Staff

Processing of Appraiser certificates, licenses, and registrations happens in the Division of Real Estate & Professional Licensing's branch office in Cleveland. This work is led by Sylvia Keberle with the assistance of full-time employees Diane Burke, Rochelle Stage, and Barbara Johnson and the help of college intern, Danielle Sherrod. In addition to serving as the north coast customer service center for the Division, the staff reviews and processes forms and applications including appraiser assistant registration, temporary and reciprocal appraiser license/certificate applications, address changes, pre-licensing and continuing education, applications for testing, and mail-in renewals. They also are responsible for the mailing of all notices regarding renewals, failure to renew by the expiration date, and expirations. This team also balances and submits names to the National Registry of the Appraisal Subcommittee (ASC) for all state licensed/certified appraisers and notifies the ASC of any disciplinary actions taken against these appraisers. There are currently 3226 licensed/certified real estate appraisers, 1604 temporary appraisers, 356 reciprocity appraisers and 744 registered real estate appraiser assistants.

When you call regarding an appraiser licensing or education matter, you may find yourself talking to the manager of the office, Sylvia Keberle. Sylvia has worked for the Division of Real Estate for over 31 years. Diane Burke has been with the Division for over 30 years, Rochelle Stage for over 27 years, and Barbara Johnson celebrated her 25th anniversary with the Division this year. When you visit the Cleveland office, our college intern, Danielle Sherrod will greet you with a smile. Danielle answers the main phone line and completes initial processing of real estate forms, appraiser applications, education and other items delivered to the office, and she helps with licensing as needed. Any member of the staff can answer your questions regarding the appraiser licensing program or will get you in contact with the appropriate person.

Many questions concerning Ohio's Appraiser Program can be found on the Division's website at: www.com.state.oh.us/real. Information on licensing requirements and testing are located in the Appraiser Candidate Information Bulletin. Appraisers can look-up license information; print forms, check on approved continuing education courses, and review Ohio Revised Code 4763 pertaining to appraisal licensing laws at this website. Upcoming changes to the Appraiser Qualifications (Effective 1-1-2008), the Student Appraiser Guide provided by the (AQB), the list of Pre-Licensure Education Providers and the approved Appraiser Reciprocity States can also be reviewed at this site.

The website is a very useful tool, available 24 hours a day, and is another valuable "virtual" member of the appraiser licensing section.

Research Studies Posted

The Division has posted the most recent research projects that were funded by the Education & Research Fund and approved by the Ohio Real Estate Commission. The current studies include:

- “House Feasibility Study” completed by Belmont Technical College. This study was conducted to determine which states regulate home inspectors and whether Ohio should require mandatory licensing. There are currently two separate bills in the legislature relating to this issue.
- “Examining Mortgage Default Rates in Ohio” completed by Cleveland State University. This research was conducted to look at reasons why Ohio has such a high foreclosure rate.

Other studies to be posted in the near future include Auctions in Ohio and Successful Media Impacts. All completed research projects can be found by visiting our website at: <http://www.com.state.oh.us/real/ERCommitteeReports.aspx>.

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Real Estate Licensing Law Updated

In an effort led by the Ohio Association of Realtors and following months of work from a large cross section of licensees and interested parties throughout the state, real estate licensing law found in Ohio Revised Code Chapter 4735 was updated primarily to allow clients the ability to waive certain duties usually provided by brokers.

These updates were made via an amendment to House Bill 150 which passed the Ohio general assembly on May 25, 2006. The revisions are found in R.C. 4735.01, R.C. 4735.16, R.C. 4735.18, R.C. 4735.51, R.C. 4735.63, and R.C. 4735.65. The bill also creates R.C. 4735.621 and R.C. 4735.75. In summary, the bill:

- ◆ adds the definitions of the phrases "exclusive right to sell or lease listing agreement," "exclusive agency agreement" and "exclusive purchaser agency agreement," and defines "seller."
- ◆ provides that "A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as 'for sale by owner' or otherwise mislead the public to believe that the seller is not represented by a real estate broker."
- ◆ makes it a violation for a licensee to negotiate the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor or tenant, knowing that they are represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchase agency agreement with respect to such property.
- ◆ clarifies that the following duties may not be waived:
 - Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
 - Performing the terms of any written agency agreement;
 - Following any lawful instructions of the client;
 - Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;
 - Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601;
 - Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;
 - Advising the client to obtain expert advice related to material matters when necessary or appropriate;
 - Accounting in a timely manner for all moneys and property received in which the client has or may have an interest; and
 - Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.
- ◆ allows certain duties to be waived, if the client agrees to waive these duties, and signs a waiver of duties statement established by the Superintendent of the Ohio Division of Real Estate & Professional Licensing and as approved by the Ohio Real Estate Commission.
- ◆ requires a licensee, whether representing a seller or buyer, to assist their client in developing, communicating, and presenting offers and counteroffers, and within the scope and knowledge for licensure, to answer their client's questions regarding the steps their client must take to fulfill the terms of any contract. Moreover, it clarifies that this does not permit a licensee to perform any act or service that constitutes the practice of law.
- ◆ It also requires the licensee to accept delivery of and present any offers or counteroffers to the purchaser in a timely manner.

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Real Estate Licensing Law Updated continued...

- ◆ allows a broker who has the exclusive authority to represent a client under a written exclusive agency agreement, exclusive right to sell agreement, or exclusive purchaser agency agreement to authorize in writing other licensees to negotiate directly with that client. The authorization must comply with the requirements of R.C. 4735.621. "Negotiate" means to: (1) deliver or communicate an offer, counteroffer, or proposal, or (2) discuss or review the terms of any offer, counteroffer, or proposal, or (3) facilitate communication regarding an offer, counteroffer, or proposal and preparing any response as directed.

The Division is developing the waiver of duties statement in preparation of the bill becoming law. The bill was signed by the Governor on July 11, 2006, and will become effective 90 days after it is filed with the Secretary of State's office. Watch for additional information on our website regarding the new "Waiver of Duties Statement" form.

Update: SB 185 Signed Into Law

Since the publication of the Spring 2006 newsletter, the Ohio House and Senate passed Senate Bill No. 185, entitled the Expanded Consumer Sales Practice Act. It was signed by Governor Taft on June 19, 2006 and its effective date will be January 1, 2007.

This law provides for criminal records checks for any applicant for an appraiser license, registration, or certification. Essentially, it prohibits the issuance of one of these designations to any one who has been convicted and/or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities. However, the superintendent would not consider the offense if the applicant were to prove to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant would commit such an offense again.

Also, the law requires every person signing an appraisal renewal application to also sign a statement that they have not, during the immediately preceding twelve-month period, been convicted of, or pleaded guilty to, any of the criminal offenses as noted above.

Next, most significantly, the law makes it a fifth degree felony for any person to directly or indirectly, compensate, instruct, induce, coerce, or intimidate, attempt to compensate, or attempt to instruct, induce, coerce, or intimidate, a certificate holder or licensee for the purpose of corrupting or improperly influencing the independent judgment of the certificate holder or licensee with respect to the valuation of any dwelling offered as security for repayment of a mortgage loan.

Additionally, SB 185 generally provides that no person is permitted to perform a real estate appraisal for a mortgage loan if the person is not licensed or certified as an appraiser in Ohio.

Lastly, SB 185 allows appraisal and real estate information, at present deemed confidential, to be released to the superintendent of financial institutions, the superintendent of insurance, the attorney general, or local law enforcement agencies and local prosecutors. The information still remains confidential as to others.

State Issued License Form Required for Foreign Real Estate Sales and Dealer License Applications and Renewals

Effective April 14, 2006, Foreign Real Estate Dealer, Foreign Real Estate Corporate Dealer, Foreign Real Estate Individual Corporate Dealer and Foreign Real Estate Salesperson license applications and renewals are required to have the Ohio Department of Public Safety, State Issued License Form (HLS 0036) completed and attached to the original application or renewal.

This new section of the Ohio Revised Code is applicable only to Foreign Real Estate licensees. "Foreign Real Estate" is defined in R.C. Section 4735.01(E) as "real estate not situated in this state and any interest in real estate not situated in this state."

Senate Bill 9, the Ohio General Assembly's most recent revision to Ohio's Anti-Terrorism Statute, requires compliance by the Division of Real Estate and Professional Licensing under R.C. Section 2909.32.

In particular, SB9 requires that all persons applying for or renewing an existing license in certain license categories designated by the Director of the Ohio Department of Public Safety complete the Ohio Department of Public Safety, "State Issued License" Form (HLS 0036). As a result, the Director of Public Safety has designated "Real Estate - Foreign Dealers," "Real Estate -Foreign Individual," and "Real Estate - Foreign Salespersons" to the list of "Identified Licenses."

The purpose of the form is to serve as a declaration of whether or not the applicant has assisted any organizations listed on the U.S. State Department Terrorist Exclusion list. If the applicant discloses assistance, or refuses to answer any of the questions, the license application or renewal will be denied and can only be reinstated by the Ohio Department of Public Safety. The Department of Public Safety will have thirty days to review a denial based on a disclosure of assistance to a terrorist organization or a refusal to answer a question on the form. The licensing agency may also revoke one of the specified licenses under Ohio's Administrative Procedure Act, O.R.C. Chapter 119, if, after the filing of a declaration of material assistance/non-assistance, the applicant takes an action that would result in a "yes" answer to any question on the declaration.

Also, SB9 requires the licensing agency to include a copy of the Department of Public Safety, State Issued License Form (HLS 0036) and the Terrorist Exclusion list with every application and renewal form. As a result, effective April 14, 2006, the Division of Real Estate must provide a copy of the Department of Public Safety, State Issued License Form (HLS 0036) and the State Department Terrorist Exclusion list to each applicant for an initial license or renewal for a Foreign Real Estate sales or dealer license.

Foreign Real Estate forms can be found on the Division's website at: <http://www.com.state.oh.us/real/realform.htm>.

Please contact the Division of Real Estate and Professional Licensing's Legal Section at (614) 466-4100 if you have any questions regarding SB9.

It's All in a Name

"Name" - At first glance, it's the easiest field to fill out on any form, however, license law requires precision in answering this question. Here are some points to consider.

➤ **Personal name:** Your given legal name is the name that you must have on your real estate license and it is the name you must use when signing documents. Nicknames are not a legal name and cannot be used on your license unless you have court documents showing proof that you have legally changed your name to a nickname. Notarized affidavits will not be accepted by the Division as a legal document for a name change. If you have changed your name due to a marriage or divorce, you need to officially change it with the Division by completing and submitting a Change Application - Individual, the \$20 fee and court documents evidencing the name change (i.e., copy of marriage license, divorce decree, social security card or driver's license).

➤ **Doing Business As - DBA:** A "doing business as" name, commonly called a "DBA", is the name a business entity uses on a daily basis, and it may or may not be different from the corporation name. Salespeople are prohibited from obtaining a "DBA". The DBA should be registered as a trade or fictitious name with the Ohio Secretary of State's Office. The term REALTOR cannot be used as part of the name of any brokerage. However, if authorized by the trade association, the term may be used in real estate advertising. To change a business entity name or establish a new fictitious or DBA name, you must complete the Division form captioned "Change Application - Business". Detailed instructions are on the application regarding appropriate fees and additional forms that are required.

Both the Individual and Business Change Applications can be found on our website at: www.com.state.oh.us/real/realform/htm.

I want to be a Real Estate Broker what do I need to do?

First you will need to know the date you were licensed as a salesperson and you must hold an active salesperson license for (2) two of the last (5) five years. In addition, you must comply with the following requirements.

- If licensed prior to 1/01/1972 no further education is due
- If licensed from 1/02/72 to 1/03/84 you must have taken the required 120 hours (course number 1,2, 3,4 listed below)
- If licensed on or after 1/03/84 the following courses are required (course number 5,6,7, 8 listed below)

1. **40 hrs. of Pre-licensing Ohio Real Estate Law**
2. **40 hrs. of Pre-licensing Ohio Real Estate Principles & Practices**
3. **20 hrs. of Pre-licensing Real Estate Appraisal**
4. **20 hrs. of Pre-licensing Real Estate Finance**
5. A Financial Management course
6. A Human Resources or Personal Management course
7. An Applied Business Economics course
8. A Business Law course
- * A minimum of two years of post-secondary education, or equivalent hours of (60) sixty semester or (90) ninety quarter hours.

Most of the time, the first four required courses are automatically given to the applicant because they are the pre-licensure courses necessary to obtain a salesperson license since 1972. The last four required courses may be included in your post-secondary education. If you want to have your college level education count as one of the required courses please fax or mail in a legible copy of your transcripts. The Division keeps a list of Ohio colleges/universities outlining what courses qualify toward the broker license education. The applicant may fax a copy of their transcript (s) to 614-644-0584. All responses for verification will be in writing. Please allow 7 days for processing.

An applicant may submit the broker examination application, a fee of \$69.00 and copies of all transcripts of education. **[Please Note: If you answer yes to the Ethical Conduct questions, "Have you ever been convicted of a felony...", your application will be reviewed by our Legal staff.]** The Division will review the complete application and a transaction affidavit will be sent to the applicant's present and previous broker(s) listed on the application. One of the duties of a broker is to respond promptly to the Division's affidavit regarding a past or present salesperson.

The Division will send an affidavit to the broker who then has (14) fourteen days to respond. If the broker fails to respond, a second affidavit is sent with a warning stating if the broker fails to respond to the Division's second request within (7) seven working days the Division's Legal Section will take disciplinary action under the Canons of Ethics and ORC 4735.18 (6).

It is important for the broker to complete and return the affidavit for verification that the applicant has met the 20 transactions criteria and the applicant has worked as a real estate salesperson for an average of 30 hours per week.

The Division calculates the transactions to ensure the applicant meets a total of 20 by using the following formulas: **[Please Note: do not calculate the number, the Division will take your whole numbers and complete the calculation.]**

- Listing agent in the sale of property owned by another = 1/2
- Selling agent in the sale of property owned by another = 1/2
- Listing agent in the lease of commercial or industrial real estate owned by another for a term of at least one year = 1/2
- Procuring agent in the lease of commercial or industrial real estate owned by another for a term of at least one year = 1/2
- Listing and /or procuring agent in the lease of four residential real estate properties owned by another for a term of at least one-year = 1/4

If an applicant meets all of the qualifications listed below, the applicant will be seated to take the broker exam.

- ✓ 2 yrs. experience as a salesperson
- ✓ Complete application with correct fees
- ✓ 20 transactions verified
- ✓ Education certificates and/or transcripts



Answers to Your Frequently Asked Questions

Q. At auction, what must an Ohio licensed real estate agent acting as an auctioneer, in auctioning real estate for a seller, disclose about this licensee's agency relationship with the seller?

A. At auction, a licensee/auctioneer must verbally disclose to those present that this licensee represents the seller. Then, this licensee must provide both a "Consumer Guide" and an Agency Disclosure Statement to the successful bidder, prior to that bidder signing a purchase contract.

Q. Is it permissible for a licensed salesperson in a team to pay another licensed salesperson in a team a commission for activities requiring a license?

A. No. R.C. 4735.20 and R.C. 4735.21 implicitly provide that commissions shall only be paid in the name of the broker to the broker's salesperson.

Q. Should a seller or seller's agent disclose known sex offenders in a neighborhood?

A. Generally, there is no affirmative duty on a seller or seller's agent to disclose information about sex offenders in a neighborhood. Prospective buyers can usually easily locate this information for themselves through the local sheriff's office or the Ohio Attorney General's office at <http://www.ag.state.oh.us/citizen/esorn.asp>.

Q. If a licensed real estate agent lists a property, do they have to disclose to potential buyers that there is a mechanic's lien on the property?

A. Mechanics liens are a matter of public record. Thus, arguably record of their existence is equally available to all parties through a title search. So generally, disclosure by a licensee is not required. Of course, a licensee would not want to provide false information about such a lien or facilitate any fraud on any buyer by failing to disclose information about a known mechanics lien.

Agents Advertising Their Own Property

A real estate broker or salesperson who advertises to deal in real estate for their own account must comply with specific disclosure requirements in the Real Estate Licensing Law. Revised Code 4735.16(B)(1) requires that licensed brokers and salespersons identify themselves by name and indicate that they are licensed in any advertising to sell, lease, exchange or buy any real estate that they own. The statute also requires that a salesperson who lists realty that they own with a real estate broker must also include the name of their broker, identifying them as a real estate broker, in any advertisement. As with ads for clients, the broker's name must be displayed in equal prominence with the salesperson's name.



Significantly, the statute provides an exception to the broker disclosure requirement when a salesperson is advertising their own property for sale, but not listing the property with a broker. In those situations, the statute does not require that the name of the broker with whom the salesperson is affiliated be included in the advertising. In all cases in which a licensee is the owner of the offered property the fact that they are an agent or broker must be included.

A recent amendment to the Real Estate Licensing Law has added an additional limitation on the use of the term "For Sale by Owner." Recently enacted Revised Code 4735.16(B)(2) provides "A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker." That new paragraph will apply equally to licensed salespersons and unlicensed laypersons. The new paragraph appears to allow a licensed salesperson to represent their own property as being "for sale by owner" unless the property is listed with a broker. In that instance wording such as, "For Sale by Owner, John Smith Agent/Owner" would be acceptable. If the property is listed with a broker, there is a prohibition against representing the salesperson's realty as being "for sale by owner."

Real Estate Disciplinary Actions

REVOCATIONS

MATT vanLEUR, broker, Dayton, Ohio, as the result of an investigation of a formal complaint, had his license revoked for violating Ohio Revised Code (O.R.C.) 4735.18(A)(6) as that section incorporates R.C. 4735.02, when he acted as a real estate broker while his broker's license in Ohio was suspended.

SUSPENSIONS, FINES, EDUCATION

GLEN G. WHITTEN, broker, Lima, Ohio, as the result of an investigation of a formal complaint, was fined \$1,000.00 for violating R.C. 4735.18(A)(21). The Commission found that Mr. Whitten had registered internet domain names, which contained variations of the names of competing brokerages. He linked those domain names to his own brokerage website. As a result, any person typing in the competing brokerages' domain names directly would be taken to Mr. Whitten's web site, which contained advertising for his brokerage and real estate listings.

BONNIE L. NEWLAND, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was fined \$250.00 for violating 2 counts of R.C. 4735.18(A)(6), one as it incorporates Administrative Code Rule 1301:5-1-06(C) and one as it incorporates Section 1 of the Canons of Ethics for the Real Estate Industry, Article 1. The Commission found that Ms. Newland failed to notify her broker in writing of her departure until approximately a month later and she incorrectly stated on a Salesperson Transfer/Reactivation Application that she had already notified the broker of her intention to transfer to a different broker.

RONALD L. DILLON, salesperson, Newark, Ohio, had his license suspended for 180 days, which commenced on April 7, 2006, for violating R.C. 4735.18(A). Mr. Dillon was convicted of the felony offense of workers compensation fraud, a felony of the 4th degree in the Court of Common Pleas of Franklin County Ohio.

MICHAEL F. GALBREATH, broker, Oberlin, Ohio, as the result of an investigation of a formal complaint, was fined \$200.00 for violating R.C. 4735.55(A)(2) when, on three specific dates, he executed agency agreements that contained incorrect fair housing language.

ANTHONY D. COLETTA, broker, Cincinnati, Ohio, as the result of an investigation of a formal complaint, was fined \$200.00 and was required to complete and to submit proof of completion of a three hour core law course for violating R.C. 4735.18(A)(5). The Commission found that Mr. Coletta failed to timely release earnest money to the seller after receiving written instructions from both the buyer and seller to do so.

JACQUELINE A. RUMSEY, salesperson, Cincinnati, Ohio, as the result of an investigation of a formal complaint, was required to complete and to submit proof of completion of a three hour course on agency for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.62(A). The Commission found that Ms. Rumsey failed to exercise reasonable skill and care in representing her clients when she acted as a dual agent after the seller declined, in writing, any dual agency representation.

JEFFREY P. MATHIAS, broker, New Philadelphia, Ohio, as the result of an investigation of a formal complaint, was fined \$300.00 and was required to complete and to submit proof of completion of three hours of education relating to agency for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.71(A), when he failed to obtain written consent from the seller to participate in a dual agency relationship. In addition, he was given a public reprimand for violating R.C. 4735.18(A)(4) when he represented the buyer and seller in an agency relationship not permitted by and without complying with R.C. 4735.71. Mr. Mathias was also fined \$200 for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.71(A)(2), when he failed to refrain from advocating for the seller while acting as a dual agent. Finally, he was fined \$200.00 and was required to complete and to submit proof of completion of a three hour core law course for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.55(A)(2), when he failed to include the proper fair-housing language in a listing agreement.

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Real Estate Disciplinary Actions continued

LESLEY J. LINK, salesperson, St. Clairsville, Ohio, as the result of an investigation of a formal complaint, was fined \$100.00 for violating R.C. 4735.18(A)(6) as that section incorporates Section 1, Article 1 of the Canons of Ethics for the Real Estate Industry. The Commission found that Ms. Link entered a property without permission and proceeded into the residence despite the home security alarm sounding and the fact that the MLS listing indicated that showings were by appointment only.

NELL GERHART, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was fined \$600.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to core law for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.62(A). The Commission found that Ms. Gerhart provided an erroneous Residential Property Disclosure Form on behalf of her client to the buyer. By doing so, she failed to exercise reasonable skill and care in representing her client and carrying out the responsibilities of the agency relationship.

STEPHEN W. KELLOUGH, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was required to complete and to submit proof of completion of a three hour course on agency for violating R.C. 4735.18(A)(24). The Commission found that Mr. Kellough failed to keep an accurate copy of the agency agreement that the buyers of a property had entered into.

LOIS J. KELLOUGH, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was required to complete and to submit proof of completion of a three hour course on agency for violating R.C. 4735.18(A)(24). The Commission found that Ms. Kellough failed to keep an accurate copy of the agency agreement that the buyers of a property had entered into.

MARTHA LOUISE McDERMOTT, salesperson, Cincinnati, Ohio, as the result of an investigation of a formal complaint, was fined \$250.00 for violating R.C. 4735.18(A)(6) as that section incorporates Ohio Administrative Code Rule 1301:5-6-07, when she failed to use the State mandated agency disclosure form.

TATIANA E. SCHNEIDER, salesperson, Canton, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of a three hour course on agency for violating R.C. 4735.18(A)(6) as that section incorporates Article 1 of the Canons of Ethics for the Real Estate Industry. The Commission found that Ms. Schneider, as the seller's agent involving a married couple, failed to verify that the husband had the authority to sign his wife's name on the purchase contract or, alternatively, obtain the wife's signature.

DONNA R. HARPOLD, broker, Cincinnati, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to agency for violating R.C. 4735.18(A)(9) as that section incorporates R.C. 4735.62(A). The Commission found that Ms. Harpold had her client sign an agency disclosure statement that did not properly indicate the agency relationships between the parties to the contract and the real estate salesperson. The statement was improperly filled out, in that, no boxes were checked and sections I and II were filled out when only section II applied. She failed to exercise reasonable care and skill in representing the client.

STEPHEN G. LOACH, broker, Findlay, Ohio, as the result of an investigation of a formal complaint, was fined a total of \$1,500.00 and was required to complete and to submit proof of completion of the 10 hour broker post-licensure course for violating 2 counts of R.C. 4735.18(A)(31). The Commission found that on 2 occasions, Mr. Loach, failed, within a reasonable time after receipt of the commission, to render an accounting to and pay a real estate salesperson their earned share of the commission.

UNLICENSED ACTIVITY

DIANE SHELTRON, Waynesville, Ohio, was found by the Commission to have violated R.C. 4735.02, unlicensed activity, but no penalty was imposed. Ms. Sheltroun, on 2 separate dates, directed and assisted in the procuring of prospects which was calculated to result in the sale of a property and she intended or expected to receive compensation or other valuable consideration for the conduct.

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Real Estate Disciplinary Actions continued

CITATIONS

ARTHUR L. PICKENS, salesperson, Fredericktown, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.16(B)(1). Specifically, the advertisement in question failed to identify the name of the brokerage.

DANIEL VARGAS, broker, Cincinnati, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.16(B)(1) and as further clarified under O.A.C. 1301:5-1-02(B). Specifically, the advertisement in question failed to identify the name of Licensee Vargas as it appeared on his license.

ANDREW J. KLUDING, broker, Norwalk, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.18(A)(21). Specifically, the advertisement in question identified an individual as a salesperson when, in fact, the individual was not licensed at the time the advertisement was published.

JOHN R. BURGAN, broker, Youngstown, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.18(A)(21). Specifically, the advertisement in question contained an illustration and/or map of a particular development prior to the developer obtaining proper zoning authorization for the design of the development.

KAREN L. AMENT, salesperson, Boardman, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.18(A)(21). Specifically, the advertisement in question included a detailed description of a futuristic plan of a development prior to the developer obtaining proper zoning authorization.

GEORGE W. SMITH, broker, Columbus, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.181(A). Specifically, Broker Smith failed to include the fair housing statement and a statement defining the practice known as "blockbusting" in a particular listing agreement.

CHRISTOPHER M. FISHER, salesperson, Columbus, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.181(A). Specifically, Licensee Fisher failed to include the fair housing statement and a statement defining the practice known as "blockbusting" in a particular listing agreement.

DOREE L. ADAMS, salesperson, Mentor, Ohio, was issued a citation in the amount of \$200.00 for violating R.C. 4735.181(A). Specifically, Licensee Adams used an agency agreement which contained the word "handicap" in lieu of the word "disability" in the fair housing law statement.



Have You Moved?

If you are a real estate licensee or an appraiser and your home address has changed, you need to update your information with the Division. There are three ways you can accomplish this and there is no fee involved.

1. You can update your home address online through our website at www.com.state.oh.us/real, click on the eLicense Center on our front page, then click on Maintain Your License Information. Please Note: Changes to other addresses (such as "main" or "business" address) are not currently available for online editing, but you should still alert the Division to changes in your address information - see below for other options.
2. You can complete the proper form and mail it to the Division by accessing our Forms on the Division's website. For real estate licensees, you choose the Change Application - Individual. For appraisers, you would choose the Multiple Change Application.
3. You can email us your updated information at REPLD@com.state.oh.us. Make sure to include your name, file number and your new address.

Superintendent Davids attends Buckeye Girls State in June



Jennifer Ruttencutter, a senior from Bellaire, Ohio (left) served as the Director of Commerce at this year's Buckeye Girls State held on June 15, 2006. She is seen here with Superintendent Kelly Davids (right). Holly Musster (not pictured) was the Assistant Director of Commerce. Holly is a senior at Ada High School, in Ada, Ohio.

Come visit us at the Department of Commerce booth at this year's Ohio State Fair - August 2 - 13, 2006!



The Ohio Department of Commerce

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Division of Real Estate and Professional Licensing
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