

ALASKA REAL ESTATE NEWS

December 2010

Sean Parnell, Governor
Susan Bell, Commissioner
Don Habeger, Director

IN THIS ISSUE:

PAGE 2
LICENSING

PAGE 3
EDUCATION

PAGE 4-5
THIRTEEN WAYS TO
AVOID GETTING A
COMPLAINT FILED

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December Commission Meeting Overview



The Real Estate Commission met on December 1st and 2nd for their quarterly meeting, the last for the year 2010. One of the hot issues the Commission addressed at this meeting was the temporary broker of absence. The Commission proposed a new regulation 12 AAC 64.078 (a new proposed citation) that would clarify this issue. The significance of the new regulation is that the broker of record, at a one person office, can enter into a contract with another broker to supervise transactions; trust accounts and/or licensees including creating and signing transaction documents during the broker of record's absence.

However, both brokers would need to sign a notification form and submit it to the Commission office.

The concept of the temporary broker absence is to provide the Commission with notification when the Broker of an office is absent and an associate broker is not available to be the designated Broker. The Commission has had excellent compliance with notification from larger offices where an Associate Broker can step in. However, it was only recently that the Commission was aware of the smaller offices sharing Broker duties.

Another issue that the Commission addressed was the regulations for Errors and Omissions insurance. The E & O regulations for the Department of Commerce were out for public comment until December 7th. The Commission went on record to provide their comments on these proposed regulations. We are anticipating that by the March meeting we will have regulations in place; thus allowing for the Commission to continue in the process of obtaining a provider for the master E & O policy.

The Commission members were introduced to the new Director of Corporations, Business and Professional Licensing, Don Habeger from Juneau.

Happy Holidays to all and may you have a prosperous 2011!

New Commission Member

Please join us in welcoming the new Commission member, Charlene Flyum. Charlene was appointed by Governor Parnell to the Real Estate Commission to fill the vacant public member seat effective October 29, 2010.

Ms. Flyum brings to the Commission a wealth of experience. Her background includes human resources, office management and support to the Homer City Council, Committees and Task Force. She is currently working with the Homer Electric Association as a Human Resource Generalist and she has worked for the State of Alaska as well as the City of Homer.

Ms. Flyum has already proved that she will be an asset to the Commission. At the last Commission meeting, she provided her input on many of the issues addressed.

Licensing

Post-Licensing Education

Do you have a “blue-colored” license displayed for the public to see?

A blue colored license indicates that a licensee has been issued an initial Broker, Associate Broker or Salesperson license and they are required to complete 30 hours of Post-Licensing Education (PLE) within the first 12 months of their initial date fo licensure.

PLE completion and expiration dates are located on the top left hand corner of the license certificate. Also PLE dates can be found on the wallet card which is provided to each licensee by their broker. Please remember these dates are time sensitive.

When a licensee has completed their PLE requirements, within the first year of issuance, and has submitted a complete PLE packet to the Commission office, the AREC staff will send an amended license on ivory-colored paper to the licensee’s Broker-in-Charge.

A PLE packet includes:

- ▶ affidavit of Post-Licensing Education
- ▶ a certificate of completion of 30 hours of PLE
- ▶ fee of \$30

If you have any questions or are not sure of your PLE expiration or completion dates, please give the Commission office a call.

Transfer of License

When a licensee requests a transfer from one broker to another, **the terminating broker shall:**

- ▶ sign and date the front of the license certificate,
- ▶ provides a copy to the licensee, and
- ▶ submits the original license certificate to the Commission within five days from the date of the licensee’s request for a license transfer.

The licensee shall:

- ▶ provide their new employing broker with a copy of their license certificate, signed and dated, as well as, a copy of their Change of Status application to transfer
- ▶ provide the Commission with a completed application for license transfer with the appropriate fees
- ▶ work off the copy of their license certificate, that was signed and dated by terminating broker, for no more than 30 days while waiting for the amended license.

If a licensee conducts real estate activities and they have not submitted an application to transfer their license to the Commission, they may be in violation of practicing real estate activities without broker supervision.

It is ultimately the licensee’s responsibility to know if their license is current and listed with a Real Estate office that is registered with the Commission.



Sharon J. Walsh
Executive
Administrator
269-8197



Nancy Harris
Project Assistant
269-8168



Beata Smith
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269-8162

Alaska Real Estate Statistics 11-10-10 thru 12-29-10

New Issues

Salesperson	22
Associate Broker (upgrade)	5
Broker (upgrade)	0

License by Endorsement

Salesperson	1
Associate Broker	0
Broker	0

Active Licensees to Date 2212

Salesperson	1360
Associate Broker	381
Broker	466

Inactive Licensees to Date 51

Salesperson	43
Associate Broker	7
Broker	1

Active Licensees by City/Borough

Anchorage	1166
Wasilla/Palmer	258
Fairbanks	173
Juneau	60
Kenai	27

Commission Members

Brad Cole, Chair
Associate Broker
Wasilla
3rd Judicial District



David Somers
Vice Chair
Broker
Fairbanks
Broker At Large



Nancy Davis
Broker
Sitka
1st Judicial District



Gene DuVal
Associate Broker
Fairbanks
4th Judicial District



Christina Swires
Associate Broker
Anchorage
Broker at Large



Marianne Burke
Anchorage
Public Member



Charlene Flyum
Homer
Public Member

No Photo
Available

DCE Requirements for 2010 -2012

All licensees must complete 20 hours of continuing education (CE) every two years in order to renew their real estate license; 8 hours of designated (DCE) and 12 hours of elective (ECE). Qualifying courses for the upcoming renewal period must have been completed between February 1, 2010 and January 31, 2012. Please check your certificates to ensure they are valid. If you are not sure, you may check for approved courses (and instructors) on the REC web site, call the provider of the course or call the Real Estate Commission office.

The current DCE topics are:

- ▶ Licensing Relationships (topic 1) - 2 hours
- ▶ Prohibited Conduct (topic 18) and Real Estate License Law (topic 25) - 2 hours
- ▶ Property Disclosures & Inspections (topic 19) - 2 hours
- ▶ Ethical Decision Making (topic 30) and Risk Management (topic 33) - 2 hours

Instructors/Course Sponsors

Recently there has been some confusion regarding course and instructor approval. In order for a licensee to receive CE credit, both the course and instructor teaching the course must be approved by the Commission under the same subject areas.

The process to be approved for an instructor is separate from the course approval. To be approved as an instructor an individual must submit to the Commission:

- ▶ a completed instructor approval application with the appropriate fees
- ▶ provide a current resume` documenting a degree and/or experience in the education topics you are requesting approval
- If you do not have experience teaching or training adults, the successful completion of a trainer the trainer workshop may be substituted.
- If you are approved as a national instructor that offers professional real estate courses that were approved for CE, you would be required to submit a current resume` and a copy of the your instructor certification from that jurisdiction.

The process for course approval is completely separate. For course approval an individual must submit to the Commission:

- ▶ a completed course approval application with the appropriate fees
- ▶ the number of contact hours requested
- ▶ name of sponsor and designated contact person
- ▶ a detailed course outline to include text materials, sample handouts, and a sample exam, if applicable
- ▶ attendance policy w/provision for make up, if applicable
- ▶ provisions for offering coursr by correspondence, if applicable

Please verify that all of your instructors and education courses are approved. You can verify certifications through the continuing education catalog located on the REC web site or call the Commission office if you have any questions.

Upcoming Meetings

Mark your calendars for the next Real Estate Commission meetings:

March 9 - 10, 2011

June 8 -9, 2011

September 7 - 8, 2011

All meetings will now be held in Anchorage at the Atwood Building
550 W 7th Ave., Ste 1270



Office Closures

December 31, 2010
(New Year's Day -observed)

January 17, 2011
(Martin Luther King's Jr's
Birthday)

February 21, 2011
(President's Day)

March 28, 2011
(Seward's Day)

Disciplinary Actions

Roger Stone, Associate Broker, Alliance Realty

Roger Stone has voluntarily surrendered his real estate associate broker's license while under investigation for alleged trust account violations involving alleged acts of conversion and misappropriation of trust funds.

Top Thirteen Ways to Avoid Getting a Complaint Filed

Used by permission from Greg Lemon,
Director, Nebraska Real Estate Commission with modifications

Below are general guidelines that hopefully will be easy to remember and incorporate into your real estate practice. The Alaska Real Estate Commission receives about 70 - 145 complaints filed a year, as well as hundreds of calls a year from consumers and licensees with concerns or potential complaints. If the rules below were followed the number of complaints would go down dramatically.

1. Don't make misrepresentations.

▶ Never withhold or deliberately misconvey information even if that information may make the transaction less likely to be completed. Always remember you are looking out for your client's best interest.

▶ Get your facts straight, don't say the house is not in a flood plain, for example, unless you have checked and verified this with official sources. Don't say the roof doesn't leak based on an assumption or limited knowledge. Don't be afraid to say I don't know, or I will check and get back to you, or you will need to consult an attorney or another professional, or that there may need to be an inspection done to answer that question.

2. Communicate, Communicate, Communicate.

Many of the complaint calls start out with "my real estate licensee won't call me back". Remember, many of your clients are entering into the biggest monetary transaction of their lives. Many haven't done a real estate transaction before, or haven't done one for many years. While the Commission does not have, nor has any interest in establishing, rules on how fast you respond to a phone call, text or e-mail, you do have a fiduciary duty to your client and it will be very hard to fulfill if you are not communicating with them.

3. Reduce all offers, contracts, amendments, addendums, etc. to writing and signed by the appropriate parties.

Alaska statute 08.88.341 provides that all real estate contracts must be in writing. The statute also requires you to present all written offers in a timely manner. There is a reason for these laws, oral agreements are much harder to prove, much easier to dispute and may not be enforceable.

4. Provide the Alaska Real Estate Commission Consumer Pamphlet before going into specific assistance or when entering into a contract.

When a complaint is filed, we review the transaction and if we find that this has not been done it can and likely will be added to any other charges in the complaint, or may even

(Continued from page 4)

Ways to Avoid Getting a Complaint (Cont'd)

be considered stand alone grounds to go forward with the complaint even if the original grounds for the complaint are dismissed.

5. Always handle the money correctly.

Deposit the earnest money in the appropriate account in a timely manner, record the disposition of any and all trust funds appropriately in your trust account ledgers.

6. Be timely.

Don't "sit on" documents, earnest money checks, offers, etc. relating to the transaction that your client may want or need. Knowing a better offer may be in its way is not a reason to withhold an offer which is on the table.

7. Seek Advice.

When faced with an unusual situation or something you don't know the answer to, talk to your supervising broker, call the Real Estate Commission, when necessary seek the advice of an attorney. When in doubt seek advice before you act.

8. Disclose, Disclose, Disclose.

Disclose known adverse material facts. Disclose that you are a licensee if you are selling property on your own behalf. Disclose a conflict of interest. Disclose your licensee relationship. Disclose all lawsuits, and convictions of criminal charges on your renewal form.

9. Do your listing agreement correctly.

Have all aspects of the agreement clearly spelled out in writing. Include the precise expiration date, and the specific terms of compensation. If you are planning on or need to extend the listing, get the extension in writing before the listing expires. Have all parties that have an interest in the property sign the listing agreement.

10. Pay attention to detail.

Know the terms of any contract you have pending or listing agreements you have. If you don't know, go to the appropriate source document and verify, don't assume.

11. Don't allow unauthorized access to the property.

Don't allow the buyer or tenant to repair, replace, paint, live in, move in, have a party at, store things, etc. on the property prior to the closing of the transaction or commencement of the lease without express written authority.

12. Keep all your paperwork with the Commission current and correct.

Get your renewal in on time, and meet your continuing education requirements. Keep any business entities you use in your real estate business (Professional Corporation, Corporation, LLC, etc.) properly registered and in good standing. *Don't start working for broker B until your transfer from broker A is complete and confirmed with the Commission.*

13. Remember your Fiduciary duty to your client.

You are representing them, their interests are to be placed above yours in your transactions and dealings with them. Place yourself in their shoes, "if I were buying this house I would certainly want to know _____", whether the blank is information about the property, or the buying or selling process, or anything else relevant to the transaction. If you always remember your fiduciary duty the other items on this list should fall into place pretty easily.

