



ARELLO BEST PRACTICES INTERNET GUIDELINES

EXECUTIVE EXCHANGE

By D. Philip Lasater, Executive Director

The following Best Practices guidelines represents a departure from a "negative no you can't police action" angle to a positively stated "this is how you can best comply with real estate regulation" while advertising and conducting business online via the Internet. Real Estate regulators from across North America just recently approved these cross-jurisdictional guidelines. Alabama Commissioners strongly concur with this approach and encourage understanding and adherence to these guidelines as companies develop their respective online policies for doing business. A very important aspect of these guidelines is that of its cross-jurisdictional nature. Since the Internet is by nature cross-jurisdictional, when you comply with

these guidelines in Alabama you can have reasonable assurance you are in compliance in any jurisdiction where an online opportunity may lead you.

Specifically, "Best Practices" was designed to:

- Create a framework of real estate consumer protection against online fraud, misrepresentation and deceptive practices and services from licensed and unlicensed individuals and firms;
- Provide regulatory guidelines that each jurisdiction can use to create any specific regulations concerning online real estate activities that it deems necessary, in a manner consistent with the operation and nature of the Internet and that will minimize cross-jurisdictional regulatory conflict, confusion and inefficiencies;
- Provide standards of online behavior for all licensees and licensed firms that, when followed, will enhance online real estate consumer protection; and
- Provide a framework for licensed firms to create their own Internet policies and procedures that addresses and enforces appropriate online licensee behavior.

An example of jurisdictional intent is that a provision for monitoring of service providers who are also known as "relo fishers". Common to their practice is failing to disclose where they are actually located in order to solicit business in an area and to then collect a referral fee. Web sites that engage in this activity imply to con-

sumers they are licensed to do business in an area and they may not be licensed to procure prospects in that jurisdiction.

The online experience will continue to generate discussions and instances for clarity and definition. These guidelines will serve well for us all navigating the exciting opportunities that online business brings to licensees and consumers.

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BEST PRACTICES INTERNET GUIDELINES

NOTE: For the remainder of this article, the term "licensed entity" refers to both licensees and licensed firms.

As used in this document, the term:

- **"Active Communication"** means the intent of contacting specifically identifiable individuals or groups of individuals.
- **"Active Solicitation"** means active communication with consumers about real estate services with intent to form a brokerage relationship.
- **"Advertising"** means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication to consumers for any purpose related to licensed real estate activity.
- **"Jurisdictional Intent"** means a reasonable body of evidence which points to intentional activity on the part of a legal entity or individual to perform services or offering to perform services requiring a real estate license in a jurisdiction.
- **"Licensed Firm Disclosure"** means advertising or messaging that contains the following information:
 - a. the firm's name as registered with the regulatory agency of the jurisdiction(s) that licensed it to do business (abbreviations not permitted),
 - b. the city and state / province in which the firm's main office is located, and
 - c. the states / provinces in which the firm holds a real estate brokerage license.
- **"Licensee Disclosure"** means advertising or messaging that contains the following information:
 - a. the licensee's name,
 - b. the name of the firm with which the licensee is affiliated as that firm's name is registered with the regulatory agency of the jurisdiction(s) that licensed it to do business (abbreviations not permitted)



- c. the city and state / province in which the licensee's office is located, and
 - d. the states / provinces in which the licensee holds a real estate license.
- **"Messaging"** means all forms of communication in any manner and by any means of communication to the public for any purpose, other than advertising, related to licensed real estate activity.
 - **"Passive Communication"** means communication available to the general public with no intent to contact specifically identifiable individuals or groups of individuals.

1. Jurisdictional Intent

Since the Internet is cross-jurisdictional in nature, it is important to address the issue of what constitutes online licensable activity from a jurisdictional standpoint. It centers on the concept of "jurisdictional intent".

For example, jurisdictional intent may occur when an individual or company uses the Internet to solicit relocation customers in the hopes of referring them to licensed entities, for a fee, in other jurisdictions. Jurisdictional intent probably exists in cases where multiple Web sites are used to attract consumers moving to many different parts of the country. This activity is dis-

tinct from the casual referral fee common in the industry when a consumer (whether a visitor to a licensed entity's Web site or not) contacts a licensed entity for a recommendation as to which broker they should use when moving to another area.

- A. Regulatory "Spirit" of Determining Jurisdiction:** Any online activity meeting the test of jurisdictional intent is subject to the laws of the jurisdiction(s) in question.
- B. Jurisdictional "Best Practices":** An appropriate license is required for each jurisdiction in which licensable online activity meets the test of jurisdictional intent.

2. Licensee and Licensed Firm Disclosure

Licensed entities can use the Internet in multiple ways to contact consumers about real estate services and to advertise. More are likely to be invented. "Licensee" and "Licensed Firm" disclosure will help to ensure that online consumers know when they are dealing with a licensed entity, who they are, and where their primary business office is located.

NOTE: For the rest of this section the term "full disclosure" refers to both "licensed firm disclosure" and "licensee disclosure".

A. Regulatory "Spirit" of Online Disclosure

All Internet related advertising that consumers can view or experience as a separate unit (for example, e-mail messages or Web pages) should require full disclosure. At some point during an exchange of direct online messages (of any nature) between consumers and a licensed entity, the licensed entity should make full disclosure in some written form that is understandable and easily available to the recipient prior to providing, or offering to provide, licensable services. The burden of proof of such prior full disclosures falls on the licensed entity when addressing a consumer complaint.

B. Online Disclosure “Best Practices”

a. The Web

Whenever a licensed entity owns a Web “page” or controls its content, every viewable page should include (or link to) a full disclosure. (A “viewable page” is one that may or may not scroll beyond the borders of the screen and includes the use of framed pages.)

b. E-mail, Newsgroups, Discussion Lists, Bulletin Boards

Such formats should include a full disclosure at the beginning or end of each message.

c. Instant Messages

Full disclosure is not necessary in this format if the licensed entity provided the written full disclosures via another format or medium (e.g., e-mail or letter) prior to providing, or offering to provide, licensable services.

d. Chat

Full disclosure prior to providing, or offering to provide, licensable services during the chat session or in text visible on the same Web page that contains the chat session if the licensed entity controls the Web site hosting the chat session.

e. VON (Voice Over Net)

Advertising - “audible” full disclosure prior to the advertising message or disclosure text visible on the same Web page that contains the VON session (if applicable).

Messaging - “audible” full disclosure is not necessary if full written disclosure was provided via another medium (i.e., e-mail, letter) prior to providing, or offering to provide, licensable services.

f. Multimedia Advertising (e.g., Web based, executable e-mail attachments, etc.)

Full disclosure should be visible as part of the advertising message.

g. Banner Ads

Should link to a Web page that has full disclosure, unless the banner ad has said disclosure.

3. Active Solicitation

Licensed entities can contact consumers about real estate services in multiple ways on the Internet, any of which could reasonably be considered “active solicitation.”

A. Regulatory “Spirit” of Online Active Solicitation:

“Active Solicitation” occurs whenever a licensed entity establishes active online communication with a consumer about real estate services with the intent to form a brokerage relationship. Active online communications methods include e-mail, chat, VON, instant messaging, and any other form of contact with specifically identifiable individuals or groups of individuals. Other forms of online communications (such as Web pages, discussion lists, bulletin board, banner ads, and multimedia advertising) are usually not considered “active solicitation” because they are forms of “passive” communication.

B. Online Active Solicitation “Best Practices”:

Jurisdictional “active solicitation” regulations apply anytime a licensee establishes active online communication with consumers about real estate services with intent to form a brokerage relationship.

4. Listings

The primary issue with online listing information centers around “currency” (i.e., keeping one or more online sources of the same listing information current and consistent), and advertising of other licensed entity’s listing information.

A. Regulatory “Spirit” of Listings Advertised Online

a. Online listing information should be consistent with the property description and actual status of the listing. When a licensed entity controls the online site, material changes to the listing status authorized by seller or property description shall be updated in a timely manner.

b. When a third party online listing service

(e.g., REALTOR.com or Homeadvisor.com) controls the Web site displaying the listing information, licensed entities to whom the listing belongs should make timely written requests (e.g., e-mail, online forms, or fax) for updates reflecting material changes to the listing status or property description in a timely manner.

c. All listing information should indicate in a readily visible manner the date that the information was last updated.

d. Licensed entities should not advertise other licensed entities’ listings without written permission, and if given, should not alter the online display or any informational part of the listing without written permission of the listing owner.

B. Online Advertising of Listings “Best Practices”:

Online listing information is to be consistent with the property description and actual status of the listing. Material changes to the listing status or property description in a timely manner. All online listing information includes readily visible language indicating when the listing information shown was last updated. Written permission should be obtained to display other licensed entities’ listing information as well as displaying any material changes to the display or nature of said information.

The Internet offers tremendous opportunities to streamline, enhance, and create efficiencies in the real estate services arena for both consumers and licensed entities. ARELLO is committed to staying abreast of how the Internet can impact the real estate industry today, as well as tomorrow. These “Best Practices” guidelines will be modified from time to time to reflect the rapid evolution of the Net. This is so we can continue to provide jurisdictions with guidelines to adequately protect online consumers and avoid encumbering licensed firms and individuals with unnecessary, burdensome, and inconsistent regulatory constraints. ■

EDUCATION CORNER

By Pat Anderson, Education Director

Required Risk Management Course Now Being Taught

Alabama's real estate educators attended a one-day instructor-training program for the new three-hour continuing education course in Risk Management on October 7, 1999. The course, authored by Peggy Powell under the direction of the Alabama Real Estate Research and Education Center, is now being offered by many Commission approved instructors throughout the state. Make your plans to take a course now.

Many still have questions about who has to take the required Risk Management course. Perhaps the following will clarify some of these concerns.

Those who must take Risk Management by August 31, 2000:

1. Licensees who did not complete their full 12 hours of continuing education by September 1, 1999.

AND

2. Who are under age 65 by September 30, 2000, or those who are 65 or over by

September 30, 2000, but have NOT held a real estate license continuously for the last ten years.

- **About the September 1 date:** September 1 refers to the date the courses were completed, NOT the date the licensee mailed the certificate to the Commission. If you still have a certificate which has not been mailed to the Commission, do it NOW! Remember, the rule requires that certificates be sent to the Commission within 30 days of course completion. In most cases, the instructor is responsible for filing those with the Commission office within ten days.

- **Reciprocal licensees and Risk Management:** Reciprocal licensees can fulfill Alabama continuing education requirements by either submitting a copy of an active license held in another state or by actually taking the twelve hours of CE in Alabama. For reciprocal licensees who take the CE in Alabama, they MUST take the Risk Management course. For those reciprocal licensees who hold an active

license in another state and show proof of that at renewal time, they DO NOT have to take the Risk Management course.

- **To activate your license now:** Those who are activating an inactive 1999-2000 license DO NOT have to take Risk Management as a condition for license activation during this renewal period. The Risk Management requirement is effective for the 2001-2002 licenses.

- **To check your continuing education credit:** Licensees can check their continuing education credit on the Commission's Web site at www.arec.state.al.us. It usually takes a couple of weeks after you complete your course for your credit to be posted on the Web site. Alternatively, licensees can request a computer printout from the Commission office by sending a written request and a \$10.00 check.

- **CE After Risk Management:** Licensees should remember that the rules changed about the makeup of the twelve hours of continuing education. While three hours must be in Risk Management, another three hours must be ONE of the following mandatory courses: License Law/Trust Funds, RECAD, or Fair Housing/Equal Opportunity/ADA. The remaining six hours of the twelve-hour requirement may be in elective courses.

The thing to note here is that Trust Funds, Agency Disclosure and RECAD II are gone from the list of mandatory courses. These courses would now be elective credit courses. However, if you completed one of these three courses between October 1, 1998, and August 31, 1999, you did receive the mandatory credit. The rule change was not effective until September 1, 1999. ■

ATTENTION: INSTRUCTORS

Instructor Training on Risk Management Auburn Hotel and Conference Center Wednesday, April 12, 2000 9:00 a.m. - 4:00 p.m.

If you missed the required instructor-training program on October 7, 1999, it is being offered again on April 12, 2000, at the Auburn Hotel and Conference Center in Auburn. It will not be offered again this year. The registration form will be in the "Educator" which is the instructor's newsletter. If you are not currently an approved instructor and would like to attend this program, contact the **Education Department** of the Commission at **334.242.5544** or e-mail inquiries to **education@arec.state.al.us**.

ANOTHER SUCCESSFUL ANNUAL INSTRUCTORS' SEMINAR

Alabama's Real Estate Educators met at the Auburn University Hotel and Conference Center on October 8, 1999, for their annual meeting. In addition to getting the latest information on law and rule changes, instructors had the opportunity to attend both a morning and afternoon breakout session. Buyer agency expert, Dianna Brouthers, presented a highly rated session on "Tips and Techniques for Teaching Buyer Agency". John Gillum, Connie Rogers and James Meacham from the Community Living Initiative presented another popular breakout session on "Serving the Needs of Home Buyers with Disabilities". Mr. Meacham, who became blind as a result of a hunting accident at age 20, offered many tips for real estate licensees as they serve customers and clients who have disabilities.

The Alabama Chapter of the Real Estate Educators Association with session moderator Jeri



Gray, hosted roundtables on a variety of topics. Chapter members served as table facilitators. Other sessions included the always-popular exam review and Commission staff presentations on the new electronic filing program for reporting course credit to the Commission and a session for registrars and instructors on Commission requirements for the proper operation of schools and classes.

All in all, it was a very good day and the highest rated seminar of all time. We are already starting on next year's program now slated for October 20, 2000! ■

AREEA Chapter Elects New Officers

The Alabama State Chapter of the Real Estate Educators Association held its annual meeting on October 7, 1999, at the Auburn Hotel and Conference Center. Congratulations to the following newly elected officers:

- President** **Jim Gillespie, DREI**
Birmingham
- President-Elect** **Jeri Gray**
Birmingham
- Secretary** **Charlotte Dean**
Florence
- Treasurer** **Fraser Sparkman**
Montgomery
- Director through 2000** **Bo Goodson**
Montgomery
- Director through 2001** **Marcia Norris**
Birmingham
- Director through 2002** **Debbie Coe**
Montgomery

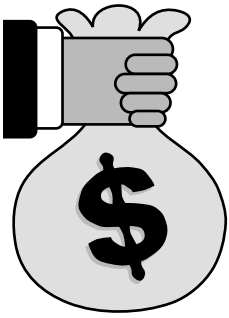
2000 REAL ESTATE EXAM DATES

EXAMINATION DATE	APPLICATION DEADLINE	LATE APPLICATION DEADLINE
March 18, 2000	February 26, 2000	March 6, 2000
April 15, 2000	March 25, 2000	April 3, 2000
May 20, 2000	April 29, 2000	May 8, 2000
June 17, 2000	May 27, 2000	June 5, 2000
July 15, 2000	June 24, 2000	July 3, 2000
August 19, 2000	July 29, 2000	August 7, 2000
September 16, 2000	August 26, 2000	September 5, 2000
October 21, 2000	September 30, 2000	October 10, 2000
November 18, 2000	October 28, 2000	November 6, 2000
No December Exam		

BRIEFLY LEGAL

By Charles R. Sowell, General Counsel

Broker Liens on Commercial Real Estate



Suppose you have worked for months putting together a sale or lease of commercial real estate. Suppose you have prepared yourself for years to get the expertise to do this type of deal. Suppose, too, that this commission would be your biggest payday ever. This is true, even though the seller and buyer already forced a lowering of your commission in order to get them to contract. Now, suppose you learn that a closing happened yesterday, and the closing attorney says there is no check in the mail for you. What would you do? Before the new commercial lien law, you only had a bunch of bad choices. Now you have a new tool to help.

Alabama's broker compensation on commercial real estate is codified beginning at §35-11-450 *Code of Alabama* 1975, as amended. It only covers commercial real estate. There is no lien available on residential property transactions. The law defines commercial real estate. If in doubt, check it out. I'm not going to repeat the gobbledygook definition. Listen to this next provision; the law makes the lien available only to those who have a written agreement to provide agency or brokerage services. Under Alabama law you can provide brokerage services as a

transaction broker without a written agreement. If you do business this way, it appears the commercial lien is not available to you. Do not forget that RECAD requires all agency agreements to be in writing, and yes, this includes commercial real estate.

Here is how you establish a lien:

1. The property that is the subject of your services agreement must be sold, leased, or otherwise transferred;
2. Give written notice by certified mail, return receipt requested, to the party whose property may be liened, if different from the parties to your agreement; and
3. Satisfactorily perform all conditions in your agreement.

The lien attaches to the property when notice of it is recorded in the office of the judge of probate in the county in which the property is located. Exactly when the notice must be recorded depends upon whether the transaction is a sale or lease, and on whether your payment is due in lump sum or installments. This is more gobbledygook. It is important, though, because failure to record the notice as specified makes the lien void and unenforceable. Also, the lien notice must contain a lot of stuff. It must state your name and address, the owner's name, a legal description of the property, etc. It is equally important to get all this right, or you lose the lien.

If the lien remains unpaid, you must file a lawsuit in the circuit court of the county in which the property is located. The suit must include a verified complaint and a sworn affidavit that notice of the lien has been recorded in compliance with

the law. The suit must be filed within 180 days after recording the notice of lien. Failure to commence proceedings within 180 days after recording shall extinguish the lien. This means you lose it. The remainder of the law deals with priority of the lien and release procedures.

Remember that this lien is a provision of civil law. It is not part of the Alabama Real Estate License Law. This means the commission has no information, forms, or jurisdiction over the lien process. Please do not call us on this. This article is for informational purposes, only. See your attorney for advice. ■



Yaaahoo!

We're Searching For Your E-Mail Address

To provide timely and important information to you faster, please e-mail us your e-mail address including your license or social security number, to arec@arec.state.al.us.



The New ARELLO President-Elect



At the annual meeting of the Association of Real Estate License Law Officials, **Philip Lasater**, Executive Director of the Alabama Real Estate Commission, was elected as its new president-elect for 1999-2000. Philip has been involved with ARELLO for many years. His affiliation include Southern District vice-president -1997; Southern District Board of

Directors (Alternate) - 1998; Chair, Audio-Visual, Interjurisdiction, and Administrative Committees; member, ARELLO Strategic Planning Task Force - 1997/1998. Committees he served and attended include the Consumer Education Task Force; Communications Committee; Budget and Finance; By-Laws; Education and Standards; Fair Housing; Industry Liaison; Legal and Professional Conduct; Legislative License Law; and Specialized Real Estate Transactions.

ARELLO comprises real estate regulatory agencies across the globe, which regulate more than two million licensees. ARELLO's membership includes organizations in the United States and its territories, Canada, Australia, South Africa, Bermuda, Hong Kong, Zimbabwe and the Philippines.

ARELLO is the single resource for assisting real estate regulators in their role, but is most often known for the policies it sets on major real estate issues, model laws and guidelines, and for its leading role in the creation and certification of standards for distance education course delivery. In the near future, ARELLO plans to launch the premier consumer Web site for real estate, which will feature an instant, online search capability for every licensee in the world.

The president-elect assists the sitting president throughout the year and works to set in motion the major projects that will continue beyond his year at the helm. ARELLO relies on the expert help of regulator members through committees to set policies and develop programs that both improve regulation and better protect the public. The president-elect

works during his term to develop and select the leaders and teams that will carry on the associations work in the coming year.

Pat Anderson Presented ARELLO President's Award



Pat Anderson, Education Director, of the Alabama Real Estate Commission was awarded the 1999 Association of Real Estate License Law Officials (ARELLO) President's Award at its annual meeting in Savannah, Georgia, on October 25, 1999. Pat, first chairperson of the ARELLO Distance Education Certification Council, was presented the

award by Michael B. Gorham, President of ARELLO, for her outstanding leadership and commitment to the development, marketing and success of the ARELLO Distance Education Certification Program.

The Real Estate Commission would like to congratulate Pat on an outstanding first year of the ARELLO Distance Education Certification Program. ■

HOLIDAY CLOSINGS FOR 2000

HOLIDAY	DATE
Confederate Memorial Day	April 24
National Memorial Day	May 29
Jefferson Davis	June 5
Independence Day	July 4
Labor Day	September 4
Columbus Day	October 9
Veterans Day	November 11
Thanksgiving	November 23
Christmas Day	December 25

DISCIPLINARY ACTIONS TAKEN

August 1999 through January 2000

AMENDED COMPLAINT AGAINST

Name: South Winds Realty, Inc., and its former Qualifying Broker, Cherine M. Bystedt and Betty J. Reichart, Salesperson

This case was appealed by Betty J. Reichart to the Circuit Court of Baldwin County. The court reversed the commission's finding of guilt on her and affirmed the commission's finding of guilt on the corporation. The corporation paid the fine.

Name: Joseph A. Lehman, Associate Broker, and Joseph P. Long, Qualifying Broker, RE/MAX of Montgomery, Montgomery, Alabama

Date of Hearing: August 20, 1999

Disposition: Mr. Lehman was found guilty and fined \$500 for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(19) and 34-27-85(a)(1) and (2) for a real estate broker to fail to inform a seller client that the earnest money shown on an offer to purchase contract form had not been collected and Sections 34-27-36(a)(19) and 34-27-84(a)(2) for a real estate broker to fail to exercise reasonable care and skill by transmitting an offer to purchase to a seller without collecting the earnest money shown, or informing the seller of the failure to collect it. Mr. Long was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(19) and 34-27-34(a)(2) for a real estate qualifying broker to fail to see that his associate broker complies with the law in all transactions.

Name: James R. Meherg, Qualifying Broker, JRM Marketing, Inc., d/b/a Century 21 Real Estate Services Company and JRM Marketing, Inc., d/b/a Real Estate Services Company, Tuscaloosa, Alabama

Date of Hearing: August 20, 1999

Disposition: Mr. Meherg was found guilty and fined \$250 for violation of the Code of Alabama



1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by commingling money belonging to others with his own funds and failing to deposit and properly account for at all times money coming into his possession which belonged to others.

Name: Van A. Norris, Salesperson, Birmingham, Alabama

Date of Hearing: September 17, 1999

Disposition: Mr. Norris was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Name: George J. Porter, Jr., Associate Broker and Joseph S. Porter, Qualifying Broker, Talladega, Alabama

Date of Hearing: September 17, 1999

Disposition: George and Joseph Porter were found guilty for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. for real estate licensees to fail to deposit and account for at all times all funds to be held in trust for other par-

ties in a separate trust account and Rule 790-X-3-.03(4) via Section 34-27-36(a)(19) Code of Alabama 1975, as amended, for a real estate licensees to disburse trust funds on a transaction that is not consummated without a written agreement to do so. George J. Porter, Jr., was fined \$1,000, and his license was suspended for 15 days. Joseph S. Porter was reprimanded, and ordered to mail the license certificate of George J. Porter, Jr., to the commission office for the 15 day suspension.

Name: Michael A. Ford, Qualifying Broker, Fairhope, Alabama

Date of Hearing: October 15, 1999

Disposition: Mr. Ford was found guilty and reprimanded for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(19) Code of Alabama 1975, as amended, for a real estate broker to fail to maintain in his files the Estimated Closing Statements as required by Alabama Real Estate Commission Rule 790-X-3-.04, Section 34-27-36(a)(19) for a real estate broker to fail to have a signed Agency Disclosure Office Policy as required by Section 34-27-83(g), Section 34-27-36(a)(8)(19) for a real estate broker to fail to use the Real Estate Brokerage Services Disclosure Forms required by Alabama Real Estate Commission Rule 790-X-3-.13 and Section 34-27-36(a)(8)a. for a real estate broker to deposit sales commissions into a trust account containing funds to be held in trust for other parties, thereby commingling personal funds with trust funds.

Name: John H. Plott, Qualifying Broker and Pinedale Properties, Incorporated, Tuscaloosa, Alabama

Date of Hearing: October 15, 1999

Disposition: Mr. Plott and Pinedale Properties, Incorporated were found guilty and fined \$1000 for violation of Alabama Real Estate Commis-

sion Rule 790-X-3-.13 and Code of Alabama 1975, as amended, Section 34-27-36(a)(8)(19), for real estate licensees to fail to use the Real Estate Brokerage Services Disclosure Forms required by Section 34-27-82(g) and Section 34-27-36(a)(19) for a real estate licensees to fail to use the agency disclosure clause in sales agreement forms as required by Section 34-27-8(c).

Name: Sonya E. Carlin, Inactive Salesperson, Gardendale, Alabama

Date of Hearing: November 19, 1999

Disposition: Ms. Carlin was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Name: Alfred J. Rocco, Qualifying Broker, Birmingham, Alabama

Date of Hearing: November 19, 1999

Disposition: Mr. Rocco was found guilty, fined \$1000 and his license suspended for one year for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) for a real estate broker, to associate himself with an unlicensed person, who is expected or required to act as a licensee, or to aid a person to circumvent the licensing requirements of the Chapter 27 of Title 34 and Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. for a real estate broker to fail to deposit and account for at all times all funds to be held in trust for other parties, and to commingle funds to be held in trust with his own funds.

Name: Stanley A. Wade, Qualifying Broker and Neil Nichols Real Estate Company, Incorporated, Bremen, Alabama

Date of Hearing: November 19, 1999

Disposition: Mr. Wade and Neil Nichols Real Estate Company were found guilty and reprimanded for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) for a real estate broker and company to fail to have

a correctly written Agency Disclosure Office Policy as required by Section 34-27-83, Section 34-27-36(a)(8)(19) for a real estate broker and company to fail to use the Real Estate Brokerage Services Disclosure Forms required by Alabama Real Estate Commission Rule 790-X-3-.13 and 34-27-36(a)(19) for a real estate broker and company to fail to incorporate the agency disclosure clause into sales contracts as required by Section 34-27-8(c).

Name: Bonnie Wimberly, Salesperson, Huntsville, Alabama

Date of Hearing: January 21, 2000

Disposition: Ms. Wimberly was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Name: Alfred W. Groghan, Qualifying Broker and TAC Incorporated, DBA Town and Country Real Estate, Fort Payne, Alabama

Date of Hearing: January 21, 2000

Disposition: Mr. Groghan was found guilty and reprimanded for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b., for a real estate broker to fail to deposit and account for at all times all funds to be held in trust for other parties. Section 34-27-36(a)(19) and Alabama Real Estate Commission Rule 790-X-3-.03(2) for a real estate broker to fail to deposit an earnest money check at the time an offer becomes a contract and is signed by the parties.

Name: Robert W. Moore, Qualifying Broker and Moore Realty Company, Anniston, Alabama

Date of Hearing: January 21, 2000

Disposition: Mr. Moore was found guilty for violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. for a real estate broker to fail to deposit and account for at all times all funds to be held in trust for other parties, Section 34-27-36(a)(19) and Alabama Real Estate Commis-

sion Rule 790-X-3-.04 for a real estate broker to fail to use and have in his files the required estimated closing statements and Section 34-27-36(a)(19) Alabama Real Estate Commission Rule 790-X-3-.13 for a real estate broker to fail to use the RECAD Real Estate Brokerage Services Disclosure Forms required for buyers by Section 34-27-82(g).

OTHER ADMINISTRATIVE ACTIONS

Determination for Licensing Eligibility

Approved 10

Denied 0

F.Y.I.

Ruling on Payment of Fees to Active Licensee Assistants by Employing Agent Instead of Qualifying Broker

QUESTION:

Can an agent who hires a licensed assistant (under the same qualifying broker) pay fees to that assistant for activities, which do not require a license? The qualifying broker would pay the assistant for all activities, which do require a license.

ANSWER:

Yes. The applicable law is Section 34-27-36(a)(14) of the Code of Alabama 1975, as amended. It says it is a violation of the law for a salesperson or associate broker to accept "a commission or other valuable consideration for performing any act for which a license is required from any person except his or her qualifying broker."

ALABAMA REAL ESTATE RESEARCH & EDUCATION CENTER

NEWS UPDATE

By Leonard V. Zumpano, Executive Director

As we begin the first year of the new millennium it is a good time to take stock of what has happened to the U.S. economy over the last decade and, more importantly, conjecture about what the future may hold for the housing markets.

Where We've Been

The economy ends the century marking the longest post-war expansion on record. In large part, the past decade's unprecedented growth in gross domestic product has been fueled by consumer spending, and, in particular, housing-related expenditures. Personal consumption expenditures accounts for 70% of the total value of all the goods and services produced by the American economy.

Housing accounts for almost 1/3rd of all consumer assets, with home equity making up 20% of the total net worth of consumers. Over the past 3 years the increase in home sales and home prices has generated \$1.2 trillion in housing wealth through capital gains. In many locations throughout the country, including Alabama, home prices have been rising at more than twice the annual inflation rate. The Federal Reserve Board estimates that the increase in capital gains attributed to the housing sector has added \$150 billion a year to consumer purchasing power during the same 3-year period. And this does not include the additional spending that has been generated from the extra cash freed up through refinancing over the past decade.

Why the Housing Market Has Been So Strong

One of the best predictors of housing market activity is employment. It serves as a very good proxy for a number of other variables that influence housing demand. When employment increases, incomes go up, consumer confidence increases, and consumers want to spend more money, especially on durable goods like housing. Add to the mix very attractive mortgage interest rates and the longest bull market in the history of the stock market and you have all the ingredients necessary for a strong housing market.

Between 1989 and 1998 stock market prices have doubled and stock values as a percent of total household assets increased from 10% to almost 25%. From the first quarter of 1994 through the first quarter of 1999, household ownership of stock increased from \$4.7 trillion to \$14 trillion by the first quarter of 1999. It has been estimated that consumers spend about 3 cents for every dollar increase in their net worth. If true, the growth in stock values has generated an additional \$25 billion in consumer spending. This translates into an additional 1% annual increase in consumer spending over this period.

Where Do We Go From Here?

As we face the new millennium what does the future hold for the American housing market?

While most analysts are predicting slower housing sales in 2000, the residential housing market, barring some unforeseen shakeout in the stock markets, is expected to remain strong through most of the new year. The big unknown is just how much the Federal Reserve plans to raise interest rates over the next few months.

Preliminary numbers from Alabama for the last three months indicate that the housing markets, in terms of both new home and existing home sales, have, in fact, been slowing since December of last year.

From a longer-term perspective, the demographic trends suggest the housing sector will continue to expand through 2020, despite fears over the baby-bust generation. The U.S. population will exceed 320 million people by 2020. In terms of household formation, it has been estimated that each year of the new decade will see between 1.1 and 1.2 new households, each one a potential homebuyer.

Niche Marketing Opportunities

What will be the growth areas for housing at the beginning of the new millennium? Although overall population and household formation in the U.S. is expected to slow during the next 20 years, some demographic components of the population will experience above average growth. This, in turn, will result in strong housing demand in some segments of the housing market.

The Baby Boom Generation

Baby boomers are generally defined as those persons born between 1946 and 1964. The historically large number of people born during the two decades following World War II was fueled by the very impressive economic growth that followed the war. The result of the very high birth rates during this period is that there are now approximately 81 million baby boomers living in the U.S. ranging in age from 35 to 54.

Most of these people, children of veterans who bought their first homes through the VA

and FHA, grew up in single family homes and have continued the tradition of homeownership. They are currently trading up into their second and third homes. By 2010 the boomers will range in age from 46 to 64. In 1998 Fannie Mae commissioned a survey of the public's attitudes about housing and homeownership. Almost half of the baby boomers surveyed indicated that they would become empty nesters within 10 years. Thirty percent said they planned to sell their current residences and buy a new home. It is this same population group that will constitute the primary market for upscale second and vacation homes.

According to a recent NAR report, Housing in the New Millennium, today's home is nearly double the size of the average home built in the 1960s with more quality amenities than was the case just a few decades ago. As the baby boomers age this trend will continue. Builders will shift from the first-time homebuyer market to the higher value, larger, trade-up properties.

Seniors

The fastest growing segment of the population is seniors. In 1998 there were about 21 million households headed by individuals over the age of 65. By 2010 that number is expected to exceed 25 million households. As is currently the case with seniors, almost 75% of these aging baby boomers will live in single-family, detached homes.

The recent Health and Retirement Survey of seniors planning to move indicated that 63% plan to either buy or build their next residence (as opposed to living in a retirement home).

Most of the seniors who do move stay within their local market area. According to the AARP over 90% of retirees wish to live within 10 miles of their current home. It is interesting to note, however, that younger seniors are more willing to locate out of state, typically to areas offering warmer climates, affordable housing, and better recreational facilities.

For those seniors who choose to live in retirement communities, 50% live in communities

designed for active adults. Active retirement communities usually include such amenities as fitness centers, shops, walking and biking trails, and clubhouses offering social and cultural activities. As expected, most of the homes in these communities include design options to accommodate the needs of older homebuyers.

Immigrants

During the last decade of the 20th Century the U.S. had become home to almost ten million more people. The number would have been even higher had the rate of immigration not been fixed at 800,000 per year during this period. The strong U.S. economy will probably continue to attract immigrants up to the legal limit for the foreseeable future. The corresponding strong demand for workers may even put pressure on the government to increase immigration quotas.

Although it takes time for recent immigrants to enter the housing market, within six years of their arrival to the U.S., the rate of homeownership for foreign-born, naturalized citizens is 67%, virtually the same as native-born citizens. Immigration should help offset the fall in housing demand that can be attributed to what is now referred to as the baby bust generation; those persons born between 1965 and 1979, when the birth rate fell well below the peak achieved with the baby boomers. The overall impact of immigration so far, however, has been concentrated in only a few states and metropolitan areas. States and communities that are successful at attracting families immigrating to the U.S. will not only be the beneficiaries of their skills and talents, but will also have more robust housing markets in the new millennium.

Single, Female, Head of Household

The largest increase in the share of homebuyers has been among single, female, heads of households. This segment of the market accounted for only 10% of all homebuyers in

1987. By 1997, this market segment had almost doubled to 18% of the market. With more women entering the professions and glass ceilings continuing to shatter across corporate America, this market segment should remain strong. In contrast, single, male buyers made up only 11% of the market in 1997.

Single households tend to be younger and earn less than married couples. As with the immigrant population they are also more likely to be first-time homebuyers. In 1989, first-time homebuyers represented approximately 30% of all homebuyers. By 2010, first-time homebuyers will make up over half of the total home buying market. This population sector will continue to expand as more young people postpone marriage or choose not to marry at all. Changing life styles and social factors such as the higher incidence of divorce have also contributed to this population segment.

Tapping Into Niche Markets

How do you take advantage of the marketing opportunities being created by these changing demographics? As a first step you need to learn more about the demographic profile of the markets within which you operate. This is where the Real Estate Research and Education Center can help. We can provide you with a basic demographic report for virtually any location within the state of Alabama over various radii. The report contains information on over 200 different demographic and economic variables, ranging from income, age distribution of the population, educational attainment, population projections, and traffic counts. Because of increasing licensing, software, and data costs, we will be raising the price of the basic demographic report from \$35 to \$50 for Alabama licensees and to \$75 dollars for non-licensees. This is the first price increase in three years. The new price schedule goes into effect on the first of April. Please visit our web site at arerec.cba.ua.edu or call the Center at (205) 348-4117 for more information on the different types of geographic reports available from the Center. ■



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